CITY OF DEER PARK
FEBRUARY 04, 2020 - 6:45 PM
CITY COUNCIL WORKSHOP - FINAL

COUNCIL CHAMBERS
710 E SAN AUGUSTINE
DEER PARK, TX 77536

Sherry Garrison, Council Position 1
TJ Haight, Council Position 2
Tommy Ginn, Council Position 3

Bill Patterson, Council Position 4
Ron Martin, Council Position 5
Rae A. Sinor, Council Position 6

James Stokes, City Manager
Gary Jackson, Assistant City Manager

Jerry Mouton Jr. , Mayor

Shannon Bennett, TRMC, City Secretary
Jim Fox, City Attorney

CALL TO ORDER

COMMENTS FROM AUDIENCE

1. Discussion of issues relating to Phase I of the Wayfinding Program. PRE 20-003

Recommended Action: No action at this time.

Attachments: Wayfinding FINAL presentation 2420

Wayfinding defects

2. Discussion of issues relating to a possible Type B election on May 2, 2020. DIS 20-017

Recommended Action: Discussion only during Workshop. An item is included on the February 4, 2019 Regular Council Meeting to consider approving an ordinance calling a special Type B election on May 2, 2020.

Attachments: 2020-01-13 DP CouncilJointMtg FINAL (1)

DPCDC Capacity Analysis (1-29-20)

3. Discussion of issues relating to an agreement with Harris County for the Hurricane Harvey CDBG-DR Bayou Bend Regional Detention Facility and Drainage Improvements Project. DIS 20-019

Recommended Action: Discussion only during workshop. An item is included on the February 4, 2020 Regular Council Meeting Agenda to consider approval of this agreement.

Attachments: City of Deer Prk Bayou Bend and Drain Impv DR2017-041 Floods_Agreement 1

Bayou Bend Regional Detention Budget

ADJOURN

The Mission of the City of Deer Park is to deliver exemplary municipal services that provide the community a high quality of life consistent with our history, culture and unique character.

_____

/s/Shannon Bennett, TRMC
City Secretary

Posted on Bulletin Board
January 31, 2020

City Hall is wheelchair accessible and accessible parking spaces are available. Hearing assistance devices are available. Requests for accommodation services must be made 72 hours prior to any meeting. Please contact the City Secretary office at 281-478-7248 for further information.

City of Deer Park

710 E SAN AUGUSTINE
DEER PARK, TX 77536

Legislation Details (With Text)

File #:	PRE 20-003	**Version:**	1	**Name:**	
Type:	Presentation			**Status:**	Agenda Ready
File created:	1/24/2020			**In control:**	City Council Workshop
On agenda:	2/4/2020			**Final action:**	
Title:	Discussion of issues relating to Phase I of the Wayfinding Program.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Wayfinding FINAL presentation 2420 Wayfinding defects				

Date	Ver.	Action By	Action	Result
2/4/2020	1	City Council Workshop		

Discussion of issues relating to Phase I of the Wayfinding Program.

Summary: Phase I of the Deer Park Wayfinding program began in 2016. Phase I of the project included 4 monument signs and 15 wayfinding signs constructed at various Parks and City owned right of ways around Deer Park. The signs were originally installed in 2017, however shortly after installation it was discovered that the wayfinding signs were not constructed to specifications listed in the construction documents. The contractor, National Sign Plaza, warrantied the signs and over time completed all necessary repairs for Phase I signs. The attached document shows pictures of the signs in addition to a breakdown of locations and funding.

Fiscal/Budgetary Impact:

None

No action at this time.

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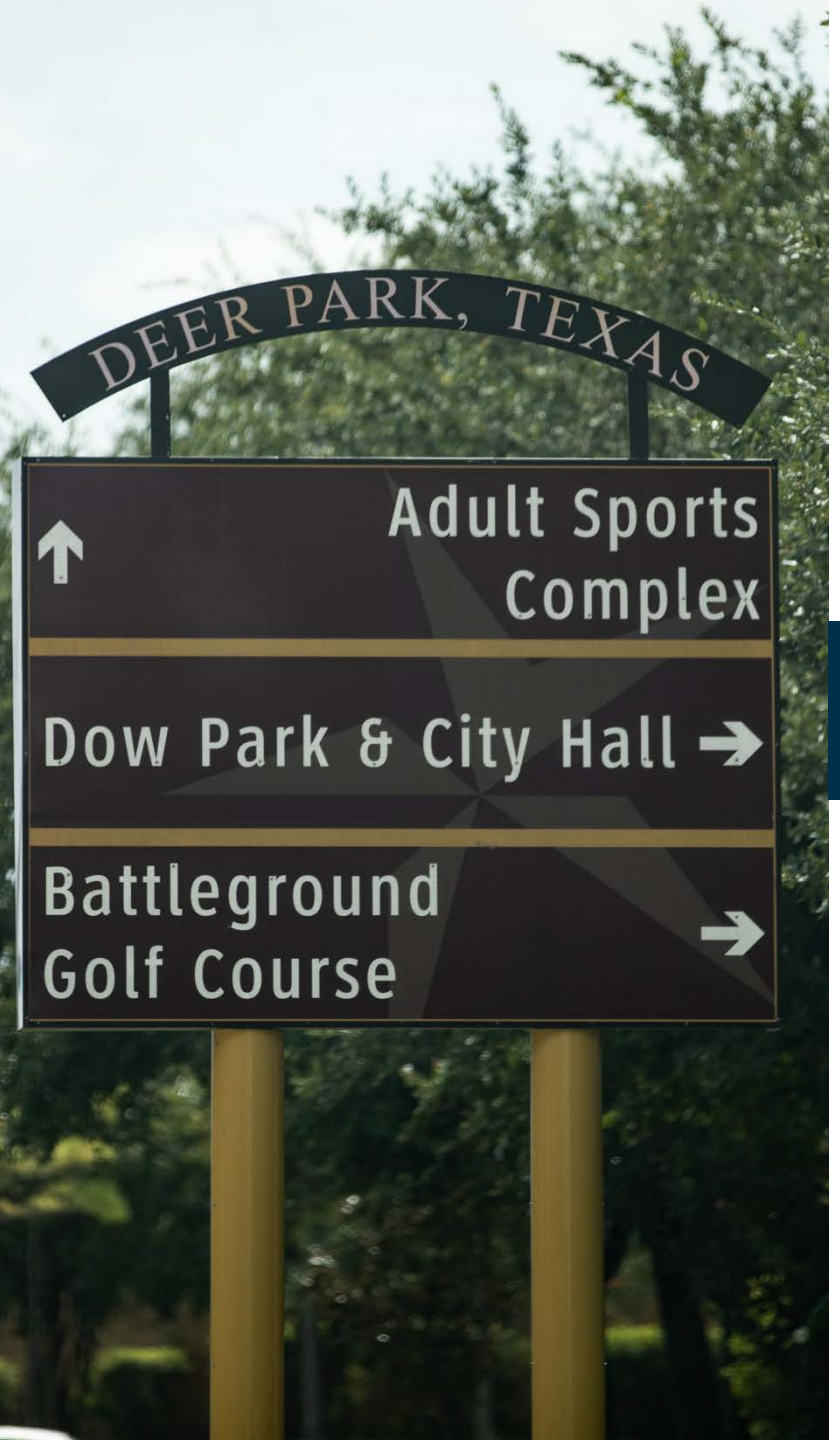
Wayfinding Project 2019/2020 Update

City of Deer Park Parks and Recreation

Project Summary

- History
- Repairs
  - Park signs were susceptible to vandalism
  - It was discovered that wayfinding signs were falling apart
  - Significant repairs needed to occur due to signs not being built to specification
- Construction issues
  - Sign piers not built to handle wind load according to specs
  - Utility easement and location conflicts
- Phase I status
  - All repairs have been made
  - The correct piers have been poured to meet code guidelines
  - All utility conflicts have been corrected



East Boulevard

San Augustine & Peyton Place

Community Center

San Augustine

(Next to Wilshire Apartments)

Center Street

(Adjacent to Shell Federal)

Center Street and San Augustine

Center Street

(Located at the Public Library)

Center Street

(Located at Deer Park Lumber)

Center Street & Pasadena Boulevard

Center Street & X Street

Center Street & P street

Center Street & San Augustine

Georgia & 13th Street

(Adjacent to Pipefitters Local Union)

Georgia Avenue & 13th Street

225

DEER PARK, TEXAS
Visitor Center
Theater / Court
Dow Park & City Hall

Wynfield Park

College Park

Runningbrook Park

Terrace Park

Phase 1 Recap

- 15 Wayfinding Signs
  - 3 primary signs
  - 12 secondary signs
- 4 Monument Signs
  - College Park
  - Wynfield Park
  - Runningbrook Park
  - Terrace Park
- Cost Factor Total = $166,520
  - Design phase 1 cost = $25,000
  - 3 primary signs at $6,600 each = $19,800
  - 12 secondary signs at $3,600 each = $43,200
  - 4 monument entry signs at $14,750 = $59,000
  - Change order phase 1 signs = $11,475
  - Monument Repairs = $3,595
  - Monument Cabinet = $4,450

Phase 2 Proposed

- 25 Wayfinding Signs
  - Discussion on sign locations will determine the primary, secondary, tertiary sign amounts

- 2 Large Monument Signs
  - City Hall – Double Monument
  - Police Department – Double Monument

Next Steps

Example 1: Sign shows a significant bend in the back panel. Bolts protruding out the back side.

Example 2: Sign shows back panel separation from existing frame. Bolts protruding out the back side and falling out.

Example 3: Sign showing bolt beginning to back out and loosen.

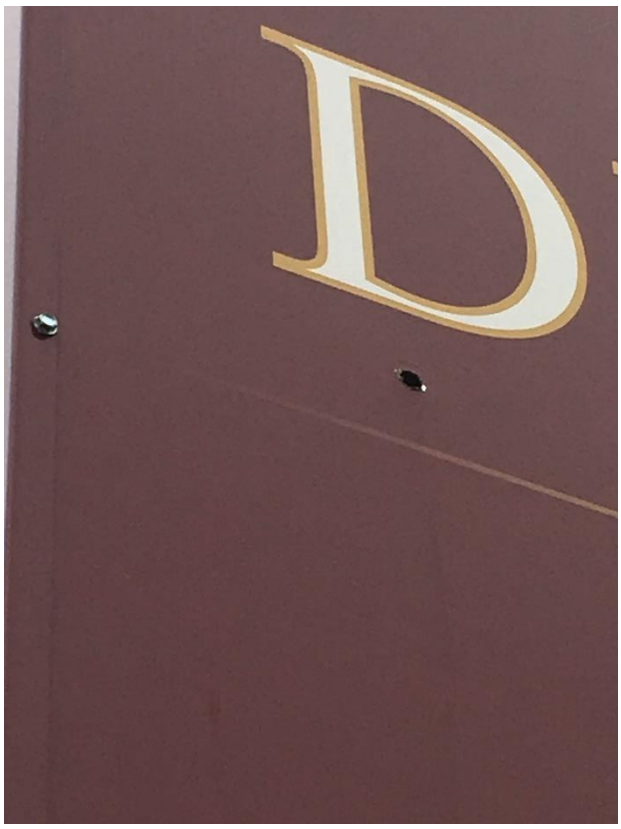
Example 4: Sign shows significant bend in back panel.

Example 5: Sign is becoming disconnected from the back panel.

Example 6: Sign shows significant bend on the bottom of the panel.

Example 7: Back panel is separating from the existing frame. Rivets popping out.

Example 8: Sign vinyl beginning to delaminate on the front of some signs.



Example 9: Bolts falling out of signs and leaving holes.

Example 10: Letters beginning to peel of signs.

City of Deer Park

710 E SAN AUGUSTINE
DEER PARK, TX 77536

Legislation Details (With Text)

File #:	DIS 20-017	**Version:**	1	**Name:**	
Type:	Discussion			**Status:**	Agenda Ready
File created:	1/27/2020			**In control:**	City Council Workshop
On agenda:	2/4/2020			**Final action:**	
Title:	Discussion of issues relating to a possible Type B election on May 2, 2020.				
Sponsors:					
Indexes:	Quality of Life/Image				
Code sections:					
Attachments:	2020-01-13 DP CouncilJointMtg FINAL (1) DPCDC Capacity Analysis (1-29-20)				

Date	Ver.	Action By	Action	Result
2/4/2020	1	City Council Workshop		

Discussion of issues relating to a possible Type B election on May 2, 2020.

Summary:

Below is a summary of information regarding the 2015 Type B sales and use tax election, the proposed community/recreation center project and the proposed May 2, 2020 Type B sales and use tax election. Where noted, some of the information references the PowerPoint presentation that was presented at the January 13, 2020 Joint Meeting of the City Council, Community Development Corporation, and the Parks and Recreation Commission.

I. 2015 Type B Election

On May 9, 2015, the voters in Deer Park authorized adoption of the Type B economic development sales and use tax within the City at the rate of one-half of one percent as authorized by chapters 501 and 505 of the Texas Local Government Code for public park purposes and events, and which is limited to the following list of projects and includes land, buildings, equipment, facilities, and improvements for such projects, and related improvements that enhance such projects:

a) replacement of the restroom facilities in Dow Park with a new pavilion structure that includes a stage, restrooms, and a concession stand;

b) renovation and expansion of the Community Center and Gym to include an indoor pool;

c) expansion of the existing Maxwell Center and parking lot;

d) renovation of baseball fields including but not limited to the Spencerview sports complex Durant Fields);

e) renovation of the girls softball facilities at the Youth Sports Complex;

f) development of soccer fields; and

g) the development of hike and bike trails

On March 3, 2015, the City Council also approved Resolution No. 2015-06, which established expenditures caps of Type B funds for each project and a total expenditure cap for all Type B projects. Per the resolution, the costs for the construction, renovation, acquisition equipment and improvement of the projects enumerated in the Proposition were capped at $20,000,000, exclusive of the costs of financing such projects. The limitation on Type B funds per project was as follows:

a) $1,500,000 for the replacement of the restroom facilities in Dow Park with a new pavilion structure that includes a stage, restrooms, and a concession stand;

b) $6,000,000 for the renovation and expansion of the Community Center and Gym to include an indoor pool;

c) $2,000,000 for the expansion of the existing Maxwell Center and parking lot;

d) $3,000,000 for the renovation of baseball fields including but not limited to the Spencerview sports complex (Durant Fields);

e) $3,000,000 for the renovation of the girls softball facilities at the Youth Sports Complex;

f) $4,000,000 for the development of soccer fields; and

g) $500,000 for the development of hike and bike trails.

Projects were funded by Type B funds through a combination of Certificates of Obligation (COs) and on a pay-as-you-go basis.

II. Community Center and Gym and Indoor Pool

Beginning on July 23, 2018, the City Council, the Deer Park Community Development Corporation and the Parks and Recreation Commission conducted a number of joint meetings to discuss the Community Center project. The complexities and challenges associated with renovating and expanding the Community Center and Gym to include an indoor pool were discussed at length. As that project was studied, it became apparent the cost of the renovations and structural repairs to the existing facilities, let alone adding an indoor therapy pool, would well exceeded $6 million. The conclusion of the architect/engineers that studied the facility was that permanent repairs would be very expensive, so much so that they believed that the City should seriously consider replacement versus repair of the community center. Since July 23, 2018, the City Council, DPCDC Board of Directors, and the Parks and Recreation Commission have weighed further options. Ultimately, they have concluded that the best option is to ask the Deer Park voters if they would like to conduct a new Type B sales tax and use tax election to authorize additional purposes including the new Community/Recreation Center.

The proposed concept for the community/recreation center is for two (2) new buildings, both located on the north side of Dow Park.

a) The first (Phase 1 - Community Center) will house activity/program/meeting rooms and staff

offices, to be constructed next door to City Hall on the site of the former City Hall.

b) The second building (Phase 2-Recreation Center) would house the gymnasium, indoor walking track, and indoor pool to be built on the site of the current Community Center and Gymnasium after demolition of the current Community Center and Gymnasium.

Additionally, a new outdoor swimming pool bathhouse to replace the 44-year-old bathhouse would be also be constructed.

Project Cost - Slide #4 PowerPoint

The estimated total project cost for the design and construction of the Community Center, Recreation Center and the new outdoor swimming pool bathhouse is estimated at $40,200,000. This includes hard costs, furniture fixtures and equipment, professional services, contingencies and miscellaneous costs, and escalation, based on a June 2021 start for construction (note: architectural design is anticipated to begin in June 2020).

Project Schedule - Slide #5 of PowerPoint

The anticipated timeline for construction of the new Community Center is 44 months. This time period includes 12 months for design, two months for the bidding process, and 29 months for construction. Specifically, construction would entail 12 months for the Community Center Construction; three months for abatement and demolition of the existing Community Center and Gym; and 14 months for the Recreation Center.

Size

Based on the information presented by Brinkley, Sargent, Wiginton Architects at the January 13, 2020 joint meeting, the Community Center would be approximately 12,000 square feet with public spaces, program spaces, administrative offices, a service area, Recreation Division staff offices and a dance room.

The Recreation Center would be approximately 48,000 square feet with Athletic staff offices, two full-size gyms, an indoor track, a fitness room and an indoor pool. The new outdoor swimming pool bathhouse to replace the 44-year-old bathhouse would be approximately 3,000 square feet.

Conceptual Rendering - Slide #7 of PowerPoint

A conceptual rendering prepared by the architect is included on slide #7 of the PowerPoint presented at the January 13, 2020 joint meeting.

Project funding - Capacity Analysis Attachment

The project is proposed to be funded by the one-half of one percent Type B economic development sales and use tax. Certificates of Obligation (COs) would be sold to finance the project over 25 years. It is also proposed that $250,000 from the Type B sales tax be dedicated for Maintenance and Operation (M&O) of Type B projects.

Cost recovery - Slides #10-25 of PowerPoint; Projected Membership fee schedule on Slide #22

A user/membership fee schedule is proposed to be adopted to help offset the cost of maintenance

and operation (M&O) of the facility.

III. 2020 Type B Election

The proposed language for the May 2, 2020 special Type B election is as follows:

“Shall the City Council of the City of Deer Park be authorized to adopt the Type B economic development sales and use tax within the City at the rate of one-half of one percent, as authorized by chapters 501 and 505 of the Texas Local Government Code for the additional purpose of land, buildings, equipment, facilities, and improvements (including the maintenance and operating costs thereof) found by the board of directors of the Deer Park Community Development Corporation to be required or suitable for use for the following: amateur sports, children’s sports, athletic, entertainment and public park purposes and events, including ball parks, parks and park facilities, and open space improvements (including (i) a community/recreation center with indoor pool, gymnasium, and indoor track and (ii) an outdoor pool and/or pool related facilities); related concession and automobile parking facilities; related roads, streets, and water and sewer facilities; and other related improvements that enhance any of the above?”

Project Funding - if the Type B sales and use tax additional purposes authorization is approved

The estimated cost of the Community Center, Recreation Center and the new outdoor swimming pool bathhouse is $40,200,000. This would be funded by certificates of obligation paid by the reauthorized Type B sales and use tax.

Pay-as-you-go funding, when available, can be budgeted for eligible projects identified in the ballot language through the annual Type B budget process (approved by Deer Park Community Development Corporation and the City Council).

It is also proposed that $250,000 from the Type B sales tax be dedicated for Maintenance and Operation (M&O) of Type B projects.

Approximately 4.5 million of existing Type B fund balance is available for additional parking at the new Soccer Complex, Girls Softball fields at Youth Sports Complex, and Spencerview Complex (Durant Fields). Since this amount is above the cap established for projects in Resolution 2015-06, passage of the new Type B election is needed to spend these funds for this purpose.

Public Information

If the election is called, public information will be generated and distributed to provide factual information regarding the proposed Type B sales and use tax expanded purpose authorization. This will be for informational purposes only; no City resources can be used to advocate for or against a ballot measure.

Fiscal/Budgetary Impact:

Discussion only during Workshop. An item is included on the February 4, 2019 Regular Council Meeting to consider approving an ordinance calling a special Type B election on May 2, 2020.

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DEER PARK
Birthplace of Texas®

January 13, 2020

DEER PARK COMMUNITY CENTER

Joint Meeting

Deer Park City Council

Deer Park Community Development Corporation

Deer Park Parks and Recreation Commission

BRINKLEY SARGENT WIGINTON ARCHITECTS

pros consulting INC.

TONIGHT'S AGENDA

- **Review project budget & projected schedule**
- **Updated concept plan**
- **Discuss operational projections**
- **Next steps**

PROJECT COST SUMMARY

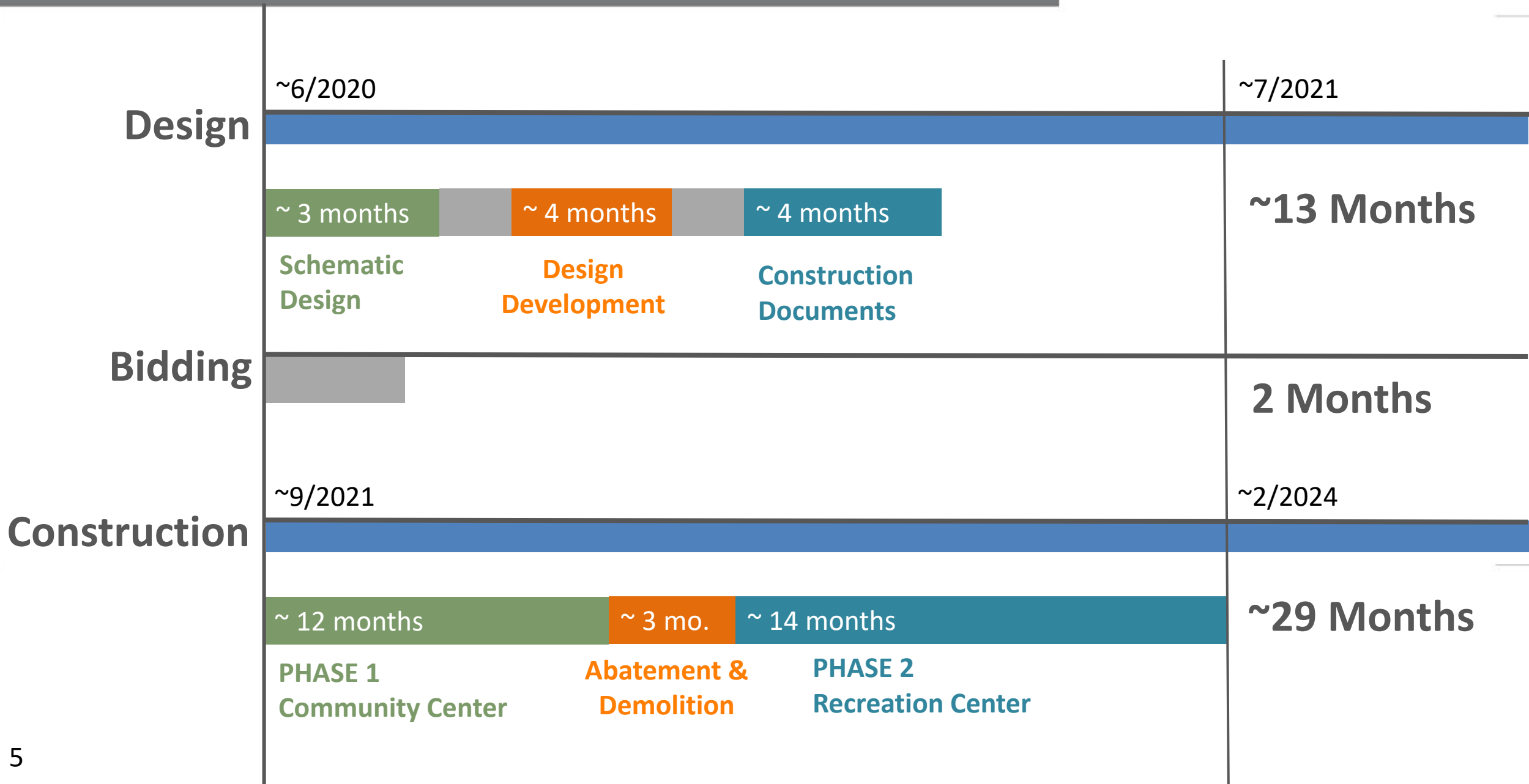
* LAST MEETING

Description	Cost
All options include 12,000 sf Community Center next to city hall	
36,000 sf recreation center – large gym, single story (no track) reduced room sizes	$31,000,000
42,200 sf recreation center – large gym, track, recommended room sizes	$34,000,000
48,000 sf recreation center – true double gym, track, recommended room sizes	$37,700,000
Outdoor pool renovations and replace bathhouse	$2,570,000

REVISED PROJECT COSTS

Description	Cost
Hard costs	
Site development	$1,965,000
Community ($5.6M) and Recreation ($16.9M) Centers	$22,509,000
Outdoor pool area & bathhouse	$726,000
FF&E (furniture, fixtures & equip.)	$1,200,000
Professional services	$3,200,000
Contingencies and misc. costs	$3,400,000
Escalation, based on 5.8% annual & 6/2021 start	$7,200,000
Total project cost	**$40,200,000**

PROJECTED PROJECT SCHEDULE



TONIGHT'S AGENDA

- Review project budget & projected schedule
- Updated concept plan
- Discuss operational projections
- Next steps

CONCEPT PLAN

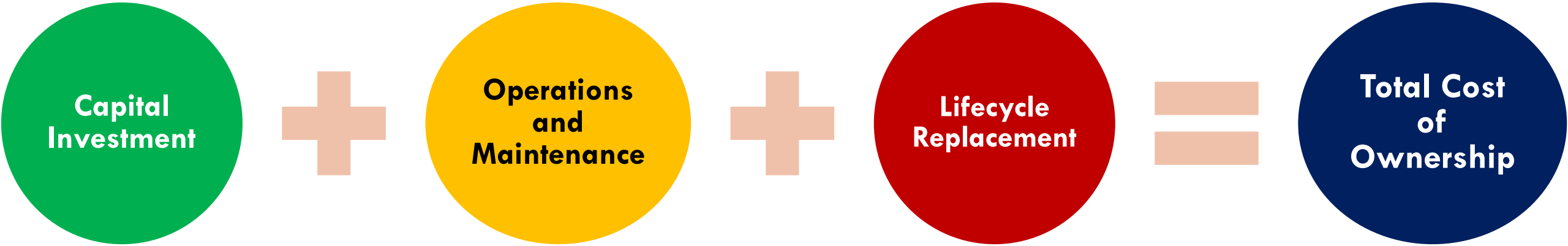
TONIGHT'S AGENDA

- Review project budget & projected schedule
- Updated concept plan
- Discuss operational projections
- Next steps

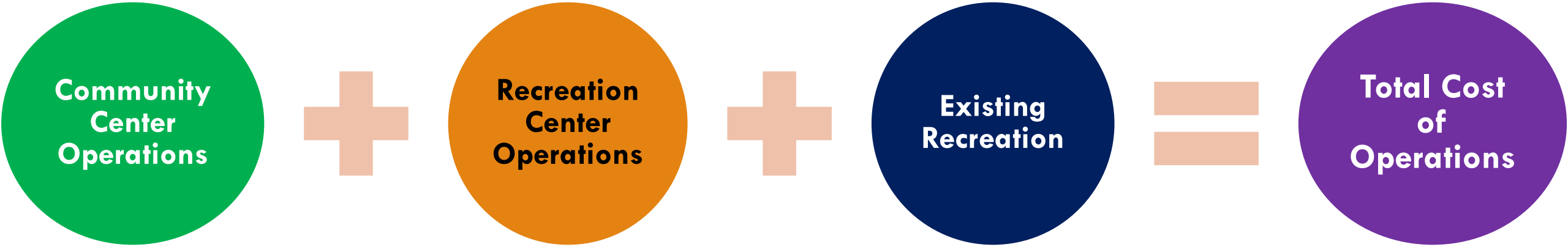
Operational Projections

- Methodology for Developing the Business Plan
- Current Recreation Budget
- Community Center Staffing Levels/Financial Plan
- Community Center Financial Plan
- Recreation Center Assumptions
- Recreation Center Financial Plan
- Overall Financial Plan
- Questions

Total Cost of Ownership Concept



Operations and Maintenance Costs



Cost Recovery Approach

COST RECOVERY – AMENITY COMPARISONS

Symbol Legend	
Included in membership cost	✓
Not provided at facility	✗
Additional cost to membership or contracted program	★
Included in facility but not part of membership	●

Amenities	Basketball/ Volleyball	Racquetball	Indoor Track	Cardio Area	Weights Area	Group Exercise Classes	Locker Rooms w/ showers	Cycling	Sauna	Indoor Pool	Child Watch	Gymnastics	Member Lounge area	Game Room/Game Area	Multi-use Rooms for Recreation Programming
Deer Park	✓	✓	✗	✓	✓	★	✗	✗	✗	✗	✗	✗	●	✓	●
La Porte *	✓	★	✗	✓	✓	★	✓	✗	★	★	✗	✗	✗	✗	●
Conroe	✓	✓	✗	✓	✓	✓	✓	✓	✗	✓	★	✓	●	✓	●
Keller Pointe	✓	✗	✓	✓	✓	★	✓	★	✗	✓	★	✗	●	✗	●
Heights Richardson	✓	✗	✗	✓	✓	★	✓	✗	✓	✓	✓	✗	●	✗	●
Richland Hills (The Link)	✓	✗	✓	✓	✓	★	✓	✓	✗	✗	✓	✗	●	●	●
Mont Belvieu (Eagle Pointe)	✓	✓	✗	✓	✓	★	✓	✓	✗	✓	★	✗	●	✗	●
Farmers Branch	✓	✗	✓	★	★	★	✓	✓	✗	✓	✓	✓	✓	✓	●
Pearland	✓	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓	✗	●	✗	●

* Currently contemplating a new facility or major expansion.

COST RECOVERY – MEMBERSHIP COMPARISONS

			Youth		Individual			Family			Senior (55+ years)			Notes
		Day/Guest Pass	Monthly	Annual	Monthly	Quarterly	Annual	Monthly	Quarterly	Annual	Monthly	Quarterly	Annual	
Deer Park	Resident	N/A	-	$ 10.00	-	-	Free	-	-	$ 30.00	-	-	Free	Family (up to 6)
	Non Resident	N/A	-	$ 20.00	-	-	$ 20.00	-	-	$ 70.00	-	-	Free	
La Porte	Resident	$ 10.00	-	-	-	$ 44.00	$ 94.00	-	$ 64.00	$ 178.00	-	$ 27.00	$ 52.00	Senior (60 &up)
	Non Resident	$ 20.00	-	-	-	$ 78.00	$ 178.00	-	$ 118.00	$ 346.00	-	$ 44.00	$ 94.00	
Conroe	Resident	$ 7.00	$ 22.00	$ 213.00	$ 22.00	$ 79.00	$ 213.00	$ 50.00	$ 180.00	$ 486.00	$ 20.00	$ 72.00	$ 194.00	4 Month Pricing instead of Quarterly Individual pricing starts at 3 and up
	Non Resident	$ 7.00	$ 28.00	$ 266.00	$ 28.00	$ 99.00	$ 266.00	$ 62.00	$ 225.00	$ 608.00	$ 25.00	$ 194.00	$ 243.00	
Keller Pointe	Resident	$ 8.00	$ 24.00	$ 234.00	$ 40.00	-	$ 398.00	$ 63.00	-	$ 627.00	$ 28.00	-	$ 272.00	Youth (3-15 Years) Individual (16-61 Years) Senior (62 & up)
	Non Resident	$ 10.00	$ 26.00	$ 256.00	$ 51.00	-	$ 507.00	$ 80.00	-	$ 796.00	$ 35.00	-	$ 349.00	
Heights Richardson	Resident	$ 7.00	-	$ 35.00	-	-	$ 60.00	-	-	$ 135.00	-	-	$ 35.00	Youth (6-17 Years) Individual (18-54 Years) Senior (65 & up)
	Non Resident	$ 14.00	-	$ 70.00	-	-	$ 120.00	-	-	$ 270.00	-	-	$ 70.00	
Richland Hills (The Link)	Resident	$ 8.00	$ 10.00	$ 100.00	$ 25.00	-	$ 250.00	$ 42.00	-	$ 420.00	$ 15.00	-	$ 150.00	Several youth pricing break downs No non-resident day pass fee Preschool aga (0-4) Child (5-13) Teen (14-18) Adult (19-54) Senior (55+)
	Non Resident	$ 8.00	$ 12.00	$ 120.00	$ 30.00	-	$ 300.00	$ 50.00	-	$ 500.00	$ 18.00	-	$ 180.00	
Mont Belvieu (Eagle Pointe)	Resident	$ 18.00	-	-	$ 32.00	-	$ 360.00	$ 45.00	-	$ 516.00	$ 43.00	-	$ 492.00	Resident and Non-resident day pass are the same price
	Non Resident	$ 18.00	-	-	$ 48.00	-	$ 552.00	$ 70.00	-	$ 816.00	-	-	-	
Farmers Branch	Resident	$ 5.00	-	$ 25.00	-	-	$ 25.00	-	-	$ 50.00	-	-	-	Individual pricing for ages 7 & up
	Non Resident	$ 5.00	-	$ 50.00	-	-	$ 50.00	-	-	$ 100.00	-	-	-	
Pearland	Resident	$ 8.00	$ 35.20	$ 330.00	$ 35.20	-	$ 330.00	$ 69.30	-	$ 660.00	$ 24.20	-	$ 231.00	Youth Pricing is the same as individual pricing Resident and Non-resident day pass are the same price
	Non Resident	$ 8.00	$ 52.80	$ 495.00	$ 52.80	-	$ 495.00	$ 104.50	-	$ 990.00	$ 36.50	-	$ 346.50	

		Youth		Individual			Family			Senior		
	Day/Guess Pass Average Price	Monthly	Annual	Monthly	Quarterly	Annual	Monthly	Quarterly	Annual	Monthly	Quarterly	Annual
Resident	$ 9.67	$ 22.80	$ 156.17	$ 30.84	$ 61.50	$ 200.00	$ 53.86	$ 122.00	$ 384.00	$ 26.04	$ 49.50	$ 203.71
Non Resident	$ 11.71	$ 29.70	$ 209.50	$ 41.96	$ 88.50	$ 308.50	$ 73.30	$ 171.50	$ 553.25	$ 28.63	$ 119.00	$ 213.75

Note: Deer Park Membership not included in average cost

Current Recreation Budget - Summary

Pro Forma Revenues & Expenditures Deer Park Recreation Current Financial Summary REVENUES AND EXPENDITURES	
Revenues	**CURRENT**
Fees and Charges	$523,000.00
Total Revenues	$523,000.00
Direct Expenditures	
All Recreation Operations	$2,742,341.00
Total Expenditures	$2,742,341.00
Net Subsidy	($2,219,341.00)
Total Cost Recovery	19%

Revenue Assumption:

- **$523,000 = Current Revenue**
  - **After School Activity Program = $395,000**
  - **Outdoor Aquatics = $108,000**
  - **Athletic Programs = $5,000**
  - **Recreation Programs = $15,000**

Expenditure Assumption:

- **$2,742,341 = 100% of Recreation Expenditures**

Projected Community Center Staffing Levels

- Recreation Specialist – 1 FT (Existing)

- Part-time Staff
  - Rentals
  - Maintenance
  - Recreation Programs

Projected Community Center Pro Forma

Pro Forma Revenues & Expenditures

DEER PARK COMMUNITY CENTER

BASELINE: REVENUES AND EXPENDITURES

Revenues	1th Year	2nd Year	3rd Year	4th Year	5th Year	6th Year
Building Maintenance	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Recreation Programs	$43,400.00	$44,702.00	$46,043.06	$47,424.35	$48,847.08	$50,312.49
Rentals	$31,000.00	$31,930.00	$32,887.90	$33,874.54	$34,890.77	$35,937.50
Total	**$74,400.00**	**$76,632.00**	**$78,930.96**	**$81,298.89**	**$83,737.86**	**$86,249.99**

Expenditures	1th Year	2nd Year	3rd Year	4th Year	5th Year	6th Year
Building Maintenance	$50,742.50	$51,998.00	$53,291.17	$54,623.12	$55,995.04	$57,408.12
Recreation Programs	$77,885.00	$78,008.00	$78,134.69	$78,265.18	$78,399.59	$78,538.02
Rentals	$25,785.00	$26,235.00	$26,698.50	$27,175.91	$27,667.63	$28,174.11
Total	**$154,412.50**	**$156,241.00**	**$158,124.36**	**$160,064.21**	**$162,062.26**	**$164,120.25**
Net Subsidy	**($80,012.50)**	**($79,609.00)**	**($79,193.40)**	**($78,765.32)**	**($78,324.41)**	**($77,870.26)**
Total Cost Recovery	48%	49%	50%	51%	52%	53%

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Projected Recreation Center Operating Hours

- **Monday – Friday: 5:30am - 10pm**
- **Saturday: 7:00am - 8:00pm**
- **Sunday: 9:00am - 5:00pm**

- **103.5 hours per week**

- ***Holiday Hours will vary depending upon the holiday from being closed to reduced hours.***

Projected Full time Staffing Levels (5 Total; 3 Existing)

- Recreation Center Facility Manager – (1) - Existing
- Recreation Program Supervisor – (1) - Existing
- **Aquatics Specialist – (1) - NEW**
- Facility Maintenance Supervisor – (1) - Existing
- **Facility Maintenance Worker – (1) - NEW**

Projected Part-time Staffing Levels

- Customer Service Specialists – 10,000 labor hours annually
- Custodial Attendants – 1,650 labor hours annually
- Aquatics - Lifeguards – 10,000 labor hours annually
- Fitness Center Supervision – 5,000 labor hours annually

Recreation Center Membership/Daily Admission Includes:

- **Unlimited use of the Center during all open recreation times**
- **Priority registration on most programs/classes**
- **Group Exercise Programs NOT INCLUDED in price of membership/daily admission.**
- **Child Watch for children ages 2-12 will be discounted for members of the Recreation Center**
  - *Child Watch is defined as up to 2 hours of babysitting while adult is utilizing the facility*
  - *Hours for Child Watch will be posted separately – morning and evening hours will be available.*

Projected Membership Fees

ACCOUNT TITLE	PRICE
Monthly Passes - Family	$25.00
Monthly Passes - Family - NR	$50.00
Monthly Passes - Individuals	$15.00
Monthly Passes - Individuals - NR	$30.00
Monthly Passes - Seniors	$10.00
Monthly Passes - Seniors - NR	$20.00
Annual Passes -Family	$290.00
Annual Passes -Family - NR	$575.00
Annual Passes - Individuals	$175.00
Annual Passes - Individuals - NR	$350.00
Annual Passes - Senior	$100.00
Annual Passes - Senior - NR	$200.00
Daily Passes	$10.00
Daily Passes - NR	$15.00

Projected Recreation Center Pro Forma

Pro Forma Revenues & Expenditures

DEER PARK RECREATION CENTER

SIX YEAR PRO FORMA

Revenues	1th Year	2nd Year	3rd Year	4th Year	5th Year	6th Year
Passes	$1,015,500.00	$1,045,965.00	$1,077,343.95	$1,109,664.27	$1,142,954.20	$1,177,242.82
Administration	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Building Maintenance	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Custodial Services	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Aquatics	$45,000.00	$46,350.00	$47,740.50	$49,172.72	$50,647.90	$52,167.33
Fitness Programs	$140,000.00	$144,200.00	$148,526.00	$152,981.78	$157,571.23	$162,298.37
Gymnasium Programs	$91,650.00	$94,399.50	$97,231.49	$100,148.43	$103,152.88	$106,247.47
Rentals	$6,125.00	$6,308.75	$6,498.01	$6,692.95	$6,893.74	$7,100.55
Total	$1,298,275.00	$1,337,223.25	$1,377,339.95	$1,418,660.15	$1,461,219.95	$1,505,056.55

Expenditures	1th Year	2nd Year	3rd Year	4th Year	5th Year	6th Year
Passes	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Administration	$552,370.00	$568,941.10	$586,009.33	$603,589.61	$621,697.30	$640,348.22
Building Maintenance	$147,970.00	$152,409.10	$156,981.37	$161,690.81	$166,541.54	$171,537.78
Custodial Services	$154,564.30	$159,201.23	$163,977.27	$168,896.58	$173,963.48	$179,182.39
Aquatics	$195,637.50	$201,506.63	$207,551.82	$213,778.38	$220,191.73	$226,797.48
Fitness Programs	$198,772.96	$204,736.15	$210,878.23	$217,204.58	$223,720.72	$230,432.34
Gymnasium Programs	$124,462.50	$128,196.38	$132,042.27	$136,003.53	$140,083.64	$144,286.15
Rentals	$18,892.50	$19,459.28	$20,043.05	$20,644.34	$21,263.68	$21,901.59
Total	$1,392,669.76	$1,434,449.85	$1,477,483.35	$1,521,807.85	$1,567,462.08	$1,614,485.95
Net Subsidy	**($94,394.76)**	**($97,226.60)**	**($100,143.40)**	**($103,147.70)**	**($106,242.13)**	**($109,429.40)**
Total Cost Recovery	93%	93%	93%	93%	93%	93%

Community Center and Recreation Center Combined Pro Forma

Pro Forma Revenues & Expenditures

DEER PARK - COMMUNITY CENTER and RECREATION CENTER PROJECTED BUDGET

BASELINE: REVENUES AND EXPENDITURES

Revenues	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year
Passes	$1,015,500.00	$1,045,965.00	$1,077,343.95	$1,109,664.27	$1,142,954.20	$1,177,242.82
Administration	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Building Maintenance	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Custodial Services	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Aquatics	$45,000.00	$46,350.00	$47,740.50	$49,172.72	$50,647.90	$52,167.33
Fitness Programs	$140,000.00	$144,200.00	$148,526.00	$152,981.78	$157,571.23	$162,298.37
Gymnasium Programs	$91,650.00	$94,399.50	$97,231.49	$100,148.43	$103,152.88	$106,247.47
Rentals	$37,125.00	$38,238.75	$39,385.91	$40,567.49	$41,784.51	$43,038.05
Recreation Programs	$43,400.00	$44,702.00	$46,043.06	$47,424.35	$48,847.08	$50,312.49
Total	$1,372,675.00	$1,413,855.25	$1,456,270.91	$1,499,959.03	$1,544,957.81	$1,591,306.54

Expenditures	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year
Passes	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00
Administration	$552,370.00	$568,941.10	$586,009.33	$603,589.61	$621,697.30	$640,348.22
Building Maintenance	$198,712.50	$204,407.10	$210,272.54	$216,313.94	$222,536.58	$228,945.90
Custodial Services	$154,564.30	$159,201.23	$163,977.27	$168,896.58	$173,963.48	$179,182.39
Aquatics	$195,637.50	$201,506.63	$207,551.82	$213,778.38	$220,191.73	$226,797.48
Fitness Programs	$198,772.96	$204,736.15	$210,878.23	$217,204.58	$223,720.72	$230,432.34
Gymnasium Programs	$124,462.50	$128,196.38	$132,042.27	$136,003.53	$140,083.64	$144,286.15
Rentals	$44,677.50	$45,694.28	$46,741.55	$47,820.25	$48,931.31	$50,075.70
Recreation Programs	$77,885.00	$78,008.00	$78,134.69	$78,265.18	$78,399.59	$78,538.02
Total	$1,547,082.26	$1,590,690.85	$1,635,607.70	$1,681,872.06	$1,729,524.35	$1,778,606.20
GENERAL FUND SUBSIDY	($174,407.26)	($176,835.60)	($179,336.80)	($181,913.02)	($184,566.54)	($187,299.66)
Total Cost Recovery	89%	89%	89%	89%	89%	89%

PROJECTION: **Annual general fund subsidy** for the operations of the new Community Center and Recreation Center **will require a general fund subsidy in the first year of full operations of $174,407.**

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Current vs Projected Annual Recreation Operating Budget

Pro Forma Revenues & Expenditures Deer Park Recreation Current and Future Financial Summary **REVENUES AND EXPENDITURES**		
Revenues	**CURRENT**	**FUTURE**
Fees and Charges	$523,000.00	$1,875,675.00
Total Revenues	$523,000.00	$1,875,675.00
Direct Expenditures		
All Recreation Operations	$2,742,341.00	$3,207,423.40
Total Expenditures	$2,742,341.00	$3,207,423.40
Net Subsidy	($2,219,341.00)	($1,331,748.40)
Total Cost Recovery	19%	58%

PROJECTION: **Annual general fund subsidy will decrease by $887,593** as compared to the current operations of the Recreation Division

QUESTIONS?

next steps

PROJECTED CENTER OPERATING HOURS

- **Monday - Friday: 5:30 AM – 10 PM**
- **Saturday: 7 AM – 8 PM**
- **Sunday: 9 AM – 5 PM**

103.5 hours per week

- **Holiday Hours will vary depending upon the holiday from being closed to reduced hours.**

PROJECTED FULL TIME STAFFING LEVELS

Existing

- Director
- Assistant Director
- Administrative Coordinator
- Secretary
- Recreation Supervisor
- Recreation Specialist (2)
- Youth Program Coordinator
- Marketing/Tech Coordinator
- Athletics/Aquatics Supervisor
- Athletics/Aquatics Coordinator
- Recreation Specialist - Athletics/Aquatics

12 total

New proposed

- **Aquatic staff member - NEW**
- **Building maintenance staff member - NEW**

2 additional

GYMNASIUM AND INDOOR POOL ASSUMPTIONS

- **Gymnasium and Indoor Pool**
  will be utilized for *both* programming and open use

- **In addition to Normal Operating Hours,**
  schedules for Gymnasium and Indoor Pool will be posted and vary based on time of year.

NEW CENTERS - $37.7M OPTION

*** DOES NOT INCLUDE OUTDOOR POOL**

~48,000 sf

Recreation Center

- Incl. 15,000 sf gymnasium w/ 2 full-size courts
- Incl. track

OUTDOOR POOL AREA SCOPE DESCRIPTION

~$2.57M

- Replace bath house
- Repairs and maintenance updates to pool as recommended by audit
- Related site improvements

EXAMPLE 10,000 SF GYMNASIUM

Deer Park Community Development Corporation
Capacity Analysis - New Election (May 2020)
25-Year Debt Structure - $250,000 in Annual O&M Expenses
$40,225,000 in Proceeds ($5,850,000 from 2015 Authorization and $34,375,000 in New Authorization)

Issued By City of Deer Park, Texas

Year Ending 9/30	Total Sales Tax Collections (a)	Estimated Interest Earnings	Operating Expenses (b)	Existing Debt Requirements	Series 2021 Bonds (c)			Total Debt Requirements	Less: Pay Go Program	Total Expenditures	Remaining Funds	Less: Existing Project Improvements	Cummulative Remaining Funds (e)
					Principal	Interest (d)	Total						
2020	$3,250,000	$5,000	$250,000	$1,216,797				$1,216,797	$525,000	$1,991,797	$1,263,203	$2,250,000	$5,196,203
2021	3,250,000	5,196	250,000	1,217,779		$732,989	$732,989	1,950,768		2,200,768	1,054,429	2,250,000	4,000,631
2022	3,250,000	4,001	250,000	1,218,412	$130,000	1,606,400	1,736,400	2,954,812		3,204,812	49,188		4,049,820
2023	3,250,000	4,050	250,000	1,218,698	135,000	1,601,100	1,736,100	2,954,798		3,204,798	49,252		4,099,072
2024	3,250,000	4,099	250,000	1,218,643	140,000	1,595,600	1,735,600	2,954,243		3,204,243	49,856		4,148,928
2025	3,250,000	4,149	250,000	752,689	620,000	1,580,400	2,200,400	2,953,089		3,203,089	51,060		4,199,988
2026	3,250,000	4,200	250,000	750,923	645,000	1,555,100	2,200,100	2,951,023		3,201,023	53,177		4,253,166
2027	3,250,000	4,253	250,000		1,285,000	1,516,500	2,801,500	2,801,500		3,051,500	202,753		4,455,919
2028	3,250,000	4,456	250,000		1,335,000	1,464,100	2,799,100	2,799,100		3,049,100	205,356		4,661,275
2029	3,250,000	4,661	250,000		1,390,000	1,409,600	2,799,600	2,799,600		3,049,600	205,061		4,866,336
2030	3,250,000	4,866	250,000		1,445,000	1,352,900	2,797,900	2,797,900		3,047,900	206,966		5,073,302
2031	3,250,000	5,073	250,000		1,505,000	1,293,900	2,798,900	2,798,900		3,048,900	206,173		5,279,475
2032	3,250,000	5,279	250,000		1,570,000	1,232,400	2,802,400	2,802,400		3,052,400	202,879		5,482,355
2033	3,250,000	5,482	250,000		1,630,000	1,168,400	2,798,400	2,798,400		3,048,400	207,082		5,689,437
2034	3,250,000	5,689	250,000		1,700,000	1,101,800	2,801,800	2,801,800		3,051,800	203,889		5,893,327
2035	3,250,000	5,893	250,000		1,770,000	1,032,400	2,802,400	2,802,400		3,052,400	203,493		6,096,820
2036	3,250,000	6,097	250,000		1,840,000	960,200	2,800,200	2,800,200		3,050,200	205,897		6,302,717
2037	3,250,000	6,303	250,000		1,915,000	885,100	2,800,100	2,800,100		3,050,100	206,203		6,508,920
2038	3,250,000	6,509	250,000		1,995,000	806,900	2,801,900	2,801,900		3,051,900	204,609		6,713,529
2039	3,250,000	6,714	250,000		2,075,000	725,500	2,800,500	2,800,500		3,050,500	206,214		6,919,742
2040	3,250,000	6,920	250,000		2,160,000	640,800	2,800,800	2,800,800		3,050,800	206,120		7,125,862
2041	3,250,000	7,126	250,000		2,245,000	552,700	2,797,700	2,797,700		3,047,700	209,426		7,335,288
2042	3,250,000	7,335	250,000		2,340,000	461,000	2,801,000	2,801,000		3,051,000	206,335		7,541,623
2043	3,250,000	7,542	250,000		2,435,000	365,500	2,800,500	2,800,500		3,050,500	207,042		7,748,665
2044	3,250,000	7,749	250,000		2,535,000	266,100	2,801,100	2,801,100		3,051,100	206,649		7,955,313
2045	3,250,000	7,955	250,000		2,640,000	162,600	2,802,600	2,802,600		3,052,600	205,355		8,160,669
2046	3,250,000	8,161	250,000		2,745,000	54,900	2,799,900	2,799,900		3,049,900	208,261		8,368,929
			$6,750,000	**$7,593,940**	**$40,225,000**	**$26,124,889**	**$66,349,889**	**$73,943,829**	**$525,000**	**$81,218,829**	**$6,685,929**	**$4,500,000**	

(a) Estimated future sales tax collections of $3,250,000 pursuant to the discussion with City staff.
(b) Operating expenses include ongoing maintenance of the projects, bond fees, audit fees, public notice fees and printing fees.
(c) Generates $40,225,000 in proceeds to the DPCDC, which includes $5,8500,000 of previously approved authorization. Sold and Delivered in March/April 2021.

City of Deer Park

710 E SAN AUGUSTINE
DEER PARK, TX 77536

Legislation Details (With Text)

File #:	DIS 20-019	**Version:**	1	**Name:**	
Type:	Discussion			**Status:**	Agenda Ready
File created:	1/30/2020			**In control:**	City Council Workshop
On agenda:	2/4/2020			**Final action:**	
Title:	Discussion of issues relating to an agreement with Harris County for the Hurricane Harvey CDBG-DR Bayou Bend Regional Detention Facility and Drainage Improvements Project.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	City of Deer Prk Bayou Bend and Drain Impv DR2017-041 Floods_Agreement 19GEN2370 (002) Bayou Bend Regional Detention Budget				

Date	Ver.	Action By	Action	Result
2/4/2020	1	City Council Workshop		

Discussion of issues relating to an agreement with Harris County for the Hurricane Harvey CDBG-DR Bayou Bend Regional Detention Facility and Drainage Improvements Project.

Summary:

On October 16, 2018, the City Council authorized submission of a grant application to Harris County under the Community Development Block Grant - Disaster Recovery (CDBG-DR) Round 1 funds for Hurricane Harvey.

The City of Deer Park was allocated to receive $2,920,500 in Community Development Block Grant - Disaster Recovery (CDBG-DR) funds for infrastructure damaged or failed to function by Hurricane Harvey through the Harris County Method of Distribution (MOD). This funding is from the U.S. Department of Housing and Urban Development (HUD) and administered through the Texas General Land Office (GLO). It is separate from funding provided by the Federal Emergency Management Agency (FEMA) administered through the Texas Division of Emergency Management (TDEM).

The Method Distribution (MOD) is the process by which a County develops the formula to allocate funding to other affected cities within the County; usually outside of the City of Houston.

One of the three eligible Activities under CDBG-DR Infrastructure/Non-housing funding includes flood control and drainage repair and improvements, including the construction or rehabilitation of storm water management systems.

As Hurricane Harvey produced a high flood event, HUD and the GLO sees drainage improvements and flood control efforts to reduce flood risk, particularly in low-income areas, as a priority type project. Under HUD rules, 70% of CDBG-DR funding must benefit low-to moderate income (LMI) persons/communities. The Bayou Bend Regional Detention Facility and Drainage Improvements Project, is in a qualifying LMI area in Deer Park.

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Harris County is a grantee under the State's CDBG-DR Hurricane Harvey Action Plan - Round One. The cities in Harris County are sub-recipients of Harris County. Attached is the agreement between Harris County and the City of Deer Park. This seventy-two (72) page agreement incorporates all of the federal grant requirements mandated by HUD and administered through the State GLO.

Fiscal/Budgetary Impact:

The grant budget is a total of $2,920,500. Harris County will select and contract for the design engineer for the project (budget estimate of $348,000). The City will be responsible for bidding, awarding and administering the contract with the successful company awarded the construction contract (budget estimate of $2,572,500). The City will be required to pay the contractor and seek reimbursement from Harris County.

Discussion only during workshop. An item is included on the February 4, 2020 Regular Council Meeting Agenda to consider approval of this agreement.

AGREEMENT BETWEEN HARRIS COUNTY AND CITY OF DEER PARK FOR THE BAYOU BEND REGIONAL DETENTION FACILITY AND DRAINAGE IMPROVEMENTS PROJECT

I. RECITALS

THIS AGREEMENT, is made and entered by and between Harris County, a body politic and corporate under the laws of the State of Texas, herein called the "Grantee," and the NAME OF SUBRECIPIENT, [IF SUBRECIPIENT IS A LOCAL GOV ENTITY THEN USE a body politic and corporate under the laws of Texas, IF SUBRECIPIENT IS A NON-PROFIT THEN USE a Texas non-profit], herein called, the "Subrecipient";

WHEREAS, on August 25, 2017, Harris County, Texas sustained significant damage when Hurricane Harvey made landfall as a Category 4 hurricane and over the next four days dropped as much as 60 inches of rain along the Gulf Coast, including Harris County, which resulted in a Presidentially Declared Disaster;

WHEREAS, the United States Department of Housing and Urban Development (HUD) has allocated $5.024 billion in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to the State of Texas in response to Hurricane Harvey, DR-4332, through the publication of the Federal Register, Vol. 83, No. 28, on Friday, February 9, 2018; and an additional $652,175,000 through the publication of the Federal Register, Vol. 83, No. 157, on Tuesday, August 14, 2018;

WHEREAS, in the State of "Texas" "Action Plan" submitted to U.S. HUD on May 8, 2018 by the Texas General Land Office (GLO), the State made a direct allocation of $1,115,386,830 in Community Development Block Grant Disaster Recovery (CDBG-DR) funding to Harris County;

WHEREAS, the GLO on May 9, 2018 notified Harris County to complete a Supplemental Action Plan, for Hurricane Harvey Round 1 CDBG-DR funding, which will be amended as needed, into the State's Action Plan; all amendments are incorporated by reference to this Agreement;

WHEREAS, in accordance with GLO requirements, on July 10, 2018 the Harris County Commissioners Court approved the Harris County Supplemental Action Plan and resolved to submit the plan to the GLO;

WHEREAS, on October 23, 2018 the Harris County Commissioners Court approved the Harris County Method of Distribution (MOD) and GLO has approved the MOD;

WHEREAS, all of the Infrastructure Project Applications for the 2017 Hurricane Harvey Texas Community Development Block Grant Disaster Recovery Round Funding was approved on Commissioners Court and submitted to the Texas General Land Office;

WHEREAS, the GLO, and Harris County DUNS No. 072206378 (each a "Party" and collectively "the Parties,") entered into a "Subrecipient Agreement" (the "Contract") on January 29, 2019, and possible subsequent Amendments, which are incorporated by Reference, under the HUD 2017 Hurricane Harvey CDBG-DR Round One Harris County Disaster Recovery Program to provide financial assistance with funds appropriated under the Continuing Appropriations Act 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law No. 115-56), enacted on September 8, 2017, to facilitate disaster recovery, restoration, and economic revitalization and to affirmatively further fair housing, in accordance with Executive Order 12892,

in the areas affected by the Texas Hurricane Harvey (DR-4332), which are Presidentially-declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121, *et seq*.);

WHEREAS, Harris County, a body politic and corporate under the laws of the State of Texas, herein called the ("Grantee") and the City of Deer Park ("Subrecipient") desire to enter into this Subrecipient "Agreement" whereby the Grantee will grant CDBG-DR funds to the Subrecipient for the purpose of Bayou Bend Regional Detention Facility and Drainage Improvements Project, which is an eligible activity under the rules and regulations regarding CDBG-DR Program Grant Funds;

WHEREAS, the Subrecipient has submitted an application to the Grantee for CDBG-Disaster Recovery funding to implement the above-described Project and shall perform the activities in a manner satisfactory to the Grantee;

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing CDBG-DR funds by committing $2,920,500.00 of the Grantee's Federal award, pursuant to this Subrecipient "Agreement" to meet community development needs having a particular urgency, as defined in 24 C.F.R. § 570.208, which is for design, construction and related activities to aid in Harris County resiliency as part of the recovery from Hurricane Harvey;

WHEREAS, the Subrecipient shall ensure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities, and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient shall include reference to Harris County Community Services Department (HCCSD) for the support provided; and (only if no)

WHEREAS, notwithstanding any provision of this Agreement, the Parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, that such a commitment of funds or approval <u>may only occur</u> upon approval of the Amendments between GLO and Harris County Community Services Department, satisfactory completion of environmental review and receipt by the Grantee Department of the authority to use grant funds from the U. S. Department of Housing and Urban Development under 24 C.F.R. §58. Except for administrative and management activities, which fall under the exempt activities category pursuant to 24 C.F.R. §58.34(3), the provision of any funds to the Project is conditioned on the Grantee's determination to proceed, modify, or cancel the Project based on the subsequent results of the environmental review.

NOW, THEREFORE, in consideration of the need for Recovery from Hurricane Harvey and the premises and described herein, the Parties mutually agree to the terms described in this Agreement:

II. <u>SCOPE OF SERVICES</u>

A. <u>County Responsibilities</u>

- Select a design engineer for drawings and specifications for the project "Plans";
- Advertise and award the project's design contract in accordance with the usual and customary procedures of County;

B. Eligible Activities

The Subrecipient shall provide the activities described in **Exhibit A,** attached hereto and incorporated herein for all purposes, in accordance with the provisions of this Agreement and in compliance with the requirements of Title 1 of the Housing and Community Development Act of 1974 and all regulations issued there under.

C. Project Requirements

The Subrecipient shall be responsible for administering the Bayou Bend Regional Detention Facility and Drainage Improvement Project in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. This Agreement may provide only partial funding for this Project. The Subrecipient qualifies for the receipt and expenditure of such funding because at least 51% of the persons residing in the service area are of low and moderate income that meet one of the criteria for National Objectives set out in 24 C.F.R. § 570.208(a).

The Subrecipient certifies and agrees that the activities carried out with funds provided under this Agreement shall meet one or more of the CDBG program's National Objectives: (1) benefit low and moderate income persons and households, (2) aid in the prevention or elimination of slums or blight, and/or (3) meet community development needs having a particular urgency, as defined in 24 C.F.R. § 570.208. The Subrecipient agrees to maintain documentation that demonstrates that the activities carried out with funds provided under this Agreement meet one or more of the CDBG program's National Objectives for each activity in each reporting period.

The Subrecipient shall ensure that personnel providing services under this Agreement have all licenses required by law and/or are qualified to perform the services required under this Agreement. The Subrecipient shall further ensure that all Program and/or facility licenses necessary to provide the required services are current and that Grantee shall immediately be notified if any such required licenses become invalid or are canceled during the term of this Agreement.

D. Performance Monitoring

The Subrecipient shall be cooperative with Program and financial monitoring visits and/or investigations performed by the Grantee staff, the Harris County Auditor's staff, (HUD), and/or the Office of Inspector General (OIG). Substandard performance as determined by the Grantee and/or HUD will constitute non-compliance and breach of this Agreement. The Subrecipient's failure to correct substandard performance within a reasonable period of time after being notified by the Grantee will result in further corrective action by the Grantee including, but not limited to, termination of this Agreement, pursuant to 2 C.F.R. §200.338. Furthermore, the Subrecipient agrees to be cooperative with monitoring and/or investigations performed by HUD and to comply its findings.

E. General Administration

1. Drawings, Plans, Bid Specifications & Construction Documents

Within six (6) to nine (9) months after the date the Agreement is executed, the Subrecipient, through its representative selected pursuant to Federal procurement regulations set out in 2 C.F.R. §200.318, and to Grantee policy and procurement guidelines, shall prepare and submit all final drawings, plans, cost estimates, and specifications and construction documentation for the Project. The Subrecipient shall be responsible for incorporating into bid specifications any and all HUD and any and all HCCSD requirements, including the "Harris County Community Services Department Subrecipient Construction Policies and Guidelines," attached as **Exhibit C.**

The Subrecipient shall ensure that the specifications require the contractor to furnish adequate Public Liability Insurance and Worker's Compensation Insurance pursuant to the laws of the State of Texas, and Payment Bond and Performance Bond pursuant to applicable OMB Circulars.

Once approved, the complete set of drawings, plans, cost estimates and specifications shall be incorporated into this Agreement as part of **Exhibit B.**

2. Temporary Project Sign and Job Shack

The Subrecipient shall ensure that the specifications include the delivery and installation by contractor of one 4'-0" X 8'-0" temporary project sign pursuant to Grantee requirements. The Subrecipient shall ensure that the cost of the sign is included in all bids. The Subrecipient shall ensure that the specifications require the contractor to furnish adequate workspace at the construction site in the job shack for Grantee inspection and monitoring staff, if applicable.

3. Bidding and Selection of Contractor and Subcontractors

The Subrecipient agrees and understands that all contracted and subcontracted construction activity carried out under this Agreement shall be selected and executed pursuant to federal procurement regulations set out in 2 C.F.R. §200.318, and to Grantee policy and procurement guidelines.

Within fifteen (15) days after the Grantee's written approval of the drawings and specifications as set out above, the Subrecipient shall advertise for and receive bids for the construction of the Project in accordance with approved drawings and specifications which bidding procedure shall be in accordance with this Agreement.

Upon receipt and tabulation of the bids for the Project, the Subrecipient shall determine the lowest and most responsible bidder for the construction of the Project. Within fifteen (15) days after receipt of bids, the Subrecipient shall forward, or cause to forward, to the Grantee, copies of all bids received, copy of all bid bonds, and bid tabulation for the Grantee's review and approval. The Grantee reserves the right to approve the award of the bid. In the event the lowest and most responsible bid for the construction of the Project is an amount that would result in the total cost of the Project being equal to or less than the sum allocated in the

construction line item of the budget, detailed in **Exhibit B** of this Agreement, the Subrecipient shall notify the Grantee of the amount of the lowest and most responsible bid for the Project.

In the event the lowest and most responsible bid for the construction of the Project is an amount in excess of the sum allocated in the construction line item of the budget, detailed in **Exhibit B** of this Agreement, the Subrecipient shall have the following four (4) options:

a. The Subrecipient shall notify the Grantee of the bid and request the Grantee to agree in writing to use those funds allocated in the contingency line item of the budget, detailed in **Exhibit B** of this Agreement, to fund the construction costs to meet the lowest and most responsible bid received by the Subrecipient. If the Grantee approves the use of contingency funds to meet the lowest and most responsible bid, then the Subrecipient, upon receipt of such notification, shall proceed to let the contract, incorporating all required provisions, and continue with construction of the Project; or

b. The Subrecipient shall notify the Grantee of the bid and agree in writing to pay the additional cost of the Project. In the event the Subrecipient agrees in writing to pay the additional costs, then and in that event, the Subrecipient shall proceed to let the contract and continue with the construction of the Project. If the Subrecipient fails to agree in writing to pay said additional costs and the Grantee fails to use contingency funds, then and in that event, the Subrecipient may reject all bids and elect not to proceed with the letting of the contract and terminate the Project without any further obligations to the Grantee; or

c. The Subrecipient shall notify the Grantee of the bid and undertake to negotiate with the Grantee for the Grantee to agree in writing to reduce or delete specific items in the bid proposal so that bids will be within the amount available for construction. In the event the Grantee agrees in writing to reduce or delete items in the bid proposal, the Subrecipient shall re-bid the Project and proceed as if it were the original bid; or

d. The Subrecipient shall reject all bids and elect not to proceed with the letting of the contract and terminate the Project, giving the Grantee written notice of its termination.

The Grantee Sponsor will guarantee that the below listed required HUD/GLO bid documents are submitted by each bidder during the bid process:

1. Certificate From Contractor Appointing Officer or Employee to Supervise Payment of Employees

2. Statement of Bidder's Qualifications

3. Contractor Certifications: Certification of Bidder Regarding Civil Rights Laws and Regulations

4. Policy of Non-Discrimination of the Basis of Disability

5. Concerning Labor Standards and Prevailing Wage Requirements

6. Non-Collusion Affidavit of Prime Bidder

7. Contractor's Local Opportunity Plan

8. Section 3 Employment and Minority Business Plan

9. Contractor Certification of Efforts to Fully Comply with Employment and Training Provisions of Section 3

The Grantee may terminate this Agreement without cause, at any time prior to the letting of the contract for construction of the Project, by written notice to the Subrecipient and the Subrecipient shall have no obligation there under except to return to the Grantee the funds paid to the Subrecipient, if any, by the Grantee pursuant to this Agreement.

4. Construction Contract and Subcontractor Written Agreements

Within fifteen (15) days after notification by the Grantee to the Subrecipient that the bid has been approved, the Subrecipient shall provide written notice of award to the lowest and most responsible bidder, in accordance with applicable Federal, State and local procurement procedures and regulations. The Subrecipient shall contract directly with its contractor, incorporating all requirements of this Agreement herein. The contract between the Subrecipient and its contractor and all contracts between contractor and its subcontractors shall be in accordance with the guidelines of this Agreement and with all applicable CDBG regulations, applicable OMB Circulars, and all other Required Federal Grant Contract Provisions, attached as **Exhibit I**.

The Subrecipient shall be responsible for incorporating into the construction contract any and all HUD and HCCSD requirements, including the "Subrecipient Construction Policies and Guidelines," attached as **Exhibit C.** The construction contract must contain the required insurance and bonding; in lieu of one or more of the bonds otherwise required pursuant to Section VII (F) of this Agreement, the Subrecipient may provide or cause to be provided one or more irrevocable letters of credit in favor of the Grantee in a form acceptable to the Grantee.

The Subrecipient shall submit to the Grantee the form of the construction contract for review and approval prior to executing the construction contract with its selected contractor. Within fifteen (15) days after the Grantee's written approval of the construction contract form, the Subrecipient shall execute the construction contract with its selected contractor.

The Subrecipient shall ensure that the contractor enters into written agreements with each subcontractor who does work covered by this Agreement. These

subcontracts must incorporate the requirements of **Exhibit C,** to the extent applicable, and shall be subject to review, upon request, by the Grantee.

5. Construction Start Date, Construction Schedule and Completion of Work

Construction Start Date – Within thirty (30) days of the executed construction contract The Grantee Sponsor shall notify or cause to notify selected contractor with the Notice to Proceed, thereby locking in the Construction Start Date, and shall forward to the Grantee Department copy of the Notice to Proceed. The Grantee Sponsor shall ensure that the construction commences within thirty (30) days of the Notice to Proceed.

Construction Schedule – The Subrecipient shall furnish or cause to furnish the Grantee with a copy of the detailed Construction Schedule within seven (7) days of the Notice to Proceed. The schedule shall be a bar type schedule and shall be of sufficient detail to show construction sequence, proposed start dates and estimated completion dates for major parts of the construction work.

Completion of Work – The Subrecipient shall ensure that, except in cases of force majeure, the construction of the Project shall be completed on or before the expiration of eighteen (18) months following the Construction Start Date.

6. Payments to Contractor and Change Orders

Payments to Contractor – The Subrecipient shall ensure that requests for payment are based on the percentage of work completed, as detailed in the Schedule of Values and certified by the Subrecipient's representative. The Subrecipient, through its representative, shall ensure that the work performed by the selected contractor shall be subject to retainage provisions of Section 2252.032 "RETAINAGE" of the Texas Government Code, as it may be amended from time to time.

Upon completion of the Project, and acceptance as such by the Subrecipient and Grantee, final payment shall be made to the contractor releasing retainage. All pay requests and release of retainage shall be verified and signed by Harris County Engineering Department (HCED).

Change Orders – The Subrecipient shall ensure (1) that the cumulative increase in the construction contract shall not exceed twenty-five (25) percent of the original construction contract for contracts awarded at $1 million or more, and (2) if a change order for a contract with an original contract amount below $1 million increases the contract amount to $1 million or more, subsequent change orders may not increase the revised contract amount by more than twenty-five (25) percent pursuant to Section 271.060 of the Texas Government Code, as subsequently amended. The Subrecipient shall approve in writing and submit to the Grantee for review and approval any change orders to the original construction contract, which shall be appropriately reflected in the Schedule of Values and subsequent pay requests. The Grantee reserves the right to approve any change orders. Any extension of time given shall not release the contractor or the surety from their

Performance and Payment Bonds or from any obligations hereunder, which shall remain in full force and effect until the discharge of the contractor. All change orders shall be verified and signed by HCED.

7. Inspections

During the construction of the Project, the Grantee or its designee, the Subrecipient and HUD shall have the right to review all documents, maps, plats, records, photographs, reports or plans affecting said construction. The Subrecipient shall, at its sole expense, furnish the necessary inspection personnel to assure itself of compliance with the construction contract. The Subrecipient understands and agrees to inspections performed by the Grantee's representative, HCED. HCED shall have full and final authority in all construction disputes. The Subrecipient agrees to promptly make any corrections or modifications to the construction work as reasonably requested by the Grantee to cause the construction to comply with this Agreement and any applicable HUD requirements.

8. Compliance with Public Facilities and Infrastructure Quality Standards

The Subrecipient shall maintain documentation evidencing that the Project complies with all applicable Federal, state and local public facilities and infrastructure quality standards.

9. Building Plaque

For projects involving the construction or renovation of a public building, the Subrecipient shall furnish, deliver, and install one 18" x 24" bronze plaque built according to Grantee specifications. The Subrecipient shall ensure that the bid specifications require the contractor to furnish the building plaque and that the cost of the building plaque is included in all bids, as applicable.

10. Compliance Violation(s) Provisions

The Subrecipient shall ensure that the construction of the Project is conducted pursuant to applicable Federal, state, and local regulations and comply with any and all requirements detailed in the bid specifications, including any and all HUD requirements and any and all Grantee requirements detailed in this Agreement.

The Grantee shall enforce the compliance violations provisions detailed in **Exhibit C,** section 13(D), for any and all violations for which the contractor, through the Subrecipient, has received a Notice of Non-Compliance or a wage restitution notification letter and failed to implement corrective actions within the allotted grace period of fifteen (15) to thirty (30) calendar days from the date of the written notice or letter.

F. <u>Leveraged Funds</u>

The Subrecipient shall maintain and make available, for review by the Grantee, source documentation for any leveraged funds contained in **Exhibit B** of this Agreement. Source

documentation for leveraged funds may be requested at any time by the Grantee and must be provided in a timely manner.

III. TIME OF PERFORMANCE

Services of the Subrecipient shall start upon Harris County Commissioners Court approval of this Agreement and shall terminate when the Project is completed, but not later than six (6) to nine (9) months following the date of this Agreement. This Agreement may only be extended upon written request to and approval from the Executive Director of HCCSD or their designee. In addition, the requirements of this Agreement shall extend for five (5) years after the funds provided for this Project under this Agreement are fully spent in accordance with 24 C.F.R. § 570.505 and with applicable OMB Circulars, or after the Project is completed as specified above.

Services of the Grantee Sponsor shall start immediately upon Harris County Commissioner's Court approval of this Agreement and shall terminate when the Project is completed, but no later than eighteen (18) months or the grant termination date stated in the HUD 2017 Hurricane Harvey CDBG-DR Round One Harris County Disaster Recovery Program Infrastructure Project Contract with the Texas following the commencement of construction as specified in Section I (D)(5) of this Order. This Order may only be extended upon written request to and approval from the Executive Director of HCCSD or his designee. In addition, the requirements of this Order shall extend for five (5) years after the funds provided for this Project under this Order are fully spent in accordance with 24 C.F.R. §570.505 and with applicable OMB circulars, or after the Project is completed as specified above.

IV. EXPENSES AND PAYMENT

A. Budget

The Subrecipient shall perform the Project activities within the monetary limits contained in **Exhibit B**, Budget. The Subrecipient understands that the budget is based upon detailed information submitted by the Subrecipient to the Grantee during the Request for Proposal (RFP) process, and that any changes to the summary budget, attached at **Exhibit B**, will require the Subrecipient to submit a modified detailed line item budget to Grantee for review and approval.

B. Requesting a Budget Revision

Any proposed reallocation of funds among various existing budget line items constitutes a budget revision. The Subrecipient shall provide narrative justification for budget revision on letterhead and signed by the representatives, as stated in **Exhibit B.** A budget revision is not approved for expenditure until the Subrecipient receives written approval from the Executive Director of HCCSD, or his designee. Upon approval, the Subrecipient shall provide a revised budget to the Grantee. At the discretion of HCCSD management, no more than two (2) budget revision requests shall be allowed each year, to be submitted no later than ninety (90) days before the end of the Agreement period, as defined in Section III of this Agreement.

New line items or an increase or decrease in funds is a budget amendment and must be formally approved by the Grantee. The Grantee reserves the right to reallocate funds among approved budget line items in order to facilitate implementation of the approved Project scope.

C. Maximum Amount to be Paid

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed the amount shown in **Exhibit B,** in the section entitled "Maximum Amount to be Paid Under this Agreement." The Subrecipient shall expend awarded funds in a consistent and timely manner. The Grantee reserves the right to reduce any or all of the awarded funds due to untimely expenditure of said funds or Agreement non-compliance.

D. Payment Contingent on Receipt of Funds from HUD

It is expressly understood that the Grantee has no County funds for the payment of services to be rendered under this Agreement**,** and the Grantee's payment obligation under this Agreement is contingent upon receipt of funds from HUD, by virtue of the above mentioned grant(s). Accordingly, notwithstanding anything herein to the contrary, the maximum liability of the Grantee under this Agreement shall not exceed the amount shown in **Exhibit B,** in the section entitled "Maximum Amount to be Paid Under this Agreement," or the amount actually received by the Grantee from HUD pursuant to the grant, whichever is less, and the Subrecipient, by execution of this Agreement, acknowledges its understanding of this fact.

E. Payment for Eligible Expenses

The Subrecipient understands and agrees that the Grantee shall reimburse the Subrecipient for only those costs that are eligible under applicable federal rules, regulations, cost principles, and other requirements relating to reimbursement with HUD or GLO grant funds. Should any expenditure of grant funds be found ineligible by Grantee, the Subrecipient will cause such funds to be returned to Grantee from other sources.

The Grantee may reimburse the Subrecipient for the total costs, plus a fraction of the overhead costs, of those items that serve only clients from the Grantee service areas, provided that all reimbursements shall be limited to the actual out-of-pocket expenses incurred by the Subrecipient in the performance of this Agreement, with the exception of certain advances. No reimbursement shall be made for goods or services received by the Subrecipient as in-kind contributions from third parties for assistance to the Program. If indirect costs are charged, the Subrecipient shall develop an indirect cost allocation plan determining the appropriate Grantee share of administrative costs and shall submit such plan to the Grantee for approval.

F. Payment Procedures

The Grantee will reimburse the Subrecipient based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payment. Drawdowns for the payment of eligible expenses and general administration shall be made against the line item budget attached hereto as **Exhibit B** and in accordance with performance. Reimbursement requests must include an invoice with required source documentation on a form approved by the Grantee and submitted on or before the tenth (20th) working day of the month for costs incurred during the preceding month. Prior to payment, the Grantee and the Harris County Auditor must approve all invoices. Incorrect reimbursement request may be returned to the Subrecipient for correction and resubmission.

Payments will be adjusted in accordance with advance fund and Program income balances available in Subrecipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this Agreement for costs incurred by the Grantee on behalf of the Subrecipient.

Subrecipient and Grantee agree that upon Subrecipient's request and approval, Grantee may use the grant funds that have been awarded to Subrecipient by virtue of the Agreement and submit payment directly to the Engineering Consultant for engineering services activities.

Final reimbursement requests for the Subrecipient shall be received by the Grantee no later than sixty (60) days after completion of the Agreement period. Any requests received after sixty (60) days will not be processed for payment and this Agreement will become void and the remaining funds de-obligated. All unexpended CDBG funds by the Subrecipient will be de-obligated and recaptured by the Grantee.

The Subrecipient shall have no obligation to construct the Project until such time as the Grantee has forwarded to the Subrecipient written authorization to proceed with the work. In the event that the Grantee fails to pay the cost for the Project up to$2,920,500.00 or more if additional funds are allocated for same, including design costs and improvements or modifications requested by Grantee within sixty (60) days after notification by the Subrecipient to the Grantee of the total amount of such costs, the Subrecipient may, but is not obligated to, proceed to construct the Project, at its discretion.

G. Retainage

Disbursement of funds under this Agreement shall be subject to retainage provisions of Section 2252.032 "RETAINAGE" of the Texas Government Code, as it may be amended from time to time.

H. Expenditure Performance

The Subrecipient shall immediately notify the Executive Director of HCCSD, or their designee, of any problems, delays or adverse conditions that will affect the ability of the Subrecipient to perform its obligations under this Agreement. Any such notice shall include a statement of actions taken or contemplated to be taken by the Subrecipient to

resolve such problems, delays or adverse conditions. The Subrecipient shall also promptly notify the Executive Director of HCCSD, or their designee, if it anticipates accomplishing the activities set forth in this Agreement with a lower expenditure of funds than the amount allocated, or within a shorter period of time than the Agreement period.

The Subrecipient further understands and agrees that should the Grantee determine that the Subrecipient will not use all of the funds allocated to the Subrecipient under this Agreement, then Grantee shall reduce the amount allocated to the Subrecipient under this Agreement for the purpose of ensuring that such funds do not remain unspent, and that such monies are promptly reallocated to other service providers in accordance with the Grantee's procurement procedures. The Grantee will notify the Subrecipient in writing of its determination to reduce the amount allocated to the Subrecipient under this Agreement and any such determination by the Grantee shall be final.

I. Supplementing a Request for Payment

A Supplemental Request amending a payment or reimbursement request may be filed with the Grantee after the submission or receipt of the original request. Any Supplemental Request for payment or reimbursement submitted after the date of submission or receipt of the original request will be subject to approval by the Grantee. No more than one Supplemental Request shall be allowed per month.

J. Program Income

The Subrecipient shall report all Program income, as defined in 24 C.F.R. §570.500(a), generated by activities carried out with CDBG funds made available under this Agreement. The use of Program income by the Subrecipient shall comply with the requirements set forth in 24 C.F.R. §570.504. By way of further limitations, the Subrecipient may use such income during the Agreement period for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such Program income balances on hand. All unused Program income shall be returned to the Grantee at the end of the Agreement period. Any interest earned on cash advances from the U.S. Treasury is not Program income and shall be remitted promptly to Grantee.

K. Withholding Payments

If HUD initiates an investigation into any matter covered under this Agreement, the Grantee may withhold all payments until the results of the investigation have been revealed and resolved. Reimbursement to the Subrecipient will be determined upon resolution of the investigation by HUD.

L. Repayment of Ineligible Payments

IN THE EVENT HUD DETERMINES THROUGH INVESTIGATIONS AND/OR MONITORING THAT ANY GRANTEE PAYMENT OR REIMBURSEMENT TO THE SUBRECIPIENT IS INELIGIBLE OR DISALLOWED, THE SUBRECIPIENT SHALL IMMEDIATELY AND WITHOUT DELAY FULLY REIMBURSE THE GRANTEE, AND THE GRANTEE WILL REIMBURSE HUD FOR DISALLOWED OR INELIGILE COSTS. IF HUD INFORMS THE GRANTEE THAT IT IS REQUIRED TO REFUND

MONEYS PREVIOUSLY AWARDED OR DRAWN DOWN FROM THE U.S. TREASURY IN REFERENCE TO THIS AGREEMENT, THE SUBRECIPIENT AGREES TO PAY AN EQUAL AMOUNT TO THE GRANTEE PRIOR TO THE DEMAND DATE OF PAYBACK.

V. NOTICES

Any communication concerning this Agreement shall be directed to the representatives of the Grantee and Subrecipient, as provided in **Exhibit A,** Scope of Services.

VI. SPECIAL CONDITIONS

The Subrecipient agrees to comply with the requirements of 24 C.F.R. Part 570 and all Federal regulations and policies issued concerning the CDBG program. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available. Failure to adhere to these conditions will result in termination of this Agreement.

VII. GENERAL CONDITIONS

A. Compliance

The Subrecipient agrees to comply with all applicable Federal, state and local laws and regulations governing the funds provided under this Agreement, including Executive Order 12372, governing the review and coordination of federally assisted programs and projects. Failure to adhere to these conditions or with any provision of this Agreement may result in the Grantee taking one of the following actions: (1) declaring the Subrecipient ineligible to participate for future awards; (2) withholding funds; and (3) termination of this Agreement.

C. Security

For any real property under the Subrecipient's control that was acquired or improved in whole or in part with CDBG funds, the Subrecipient shall execute a "Deed of Trust to Secure Performance, attached in **Exhibit H,** in favor of the Grantee. The executed Deed of Trust to Secure Performance shall extend the terms of this Agreement until five (5) years after the date the Project is completed pursuant to Section III of this Agreement, or for such longer period of time as determined by the Grantee. The Subrecipient's failure or refusal to execute the Deed of Trust to Secure Performance may result in the termination of this Agreement.

C. Independent Contractor

The Subrecipient shall operate as an independent contractor and not as an officer, agent, servant or employee of the Grantee. The Subrecipient shall have exclusive control of, and the exclusive right to control, the details of the work and services performed and shall be solely responsible for the acts and omissions of its officers, members, agents, servants, employees, sub-subrecipients, program participants, licensees or invitees. The doctrine of *respondeat superior* shall not apply as between the Grantee and the Subrecipient, its officers, members, agents, servants, employees, sub-subrecipients, program participants,

licensees or invitees, and nothing herein shall be construed as creating a partnership or joint enterprise between the Grantee and the Subrecipient. It is expressly understood and agreed that no officer, member, agent, employee, sub-subrecipient, licensee or invitee of the Subrecipient, nor any program participant hereunder, is in the paid service of the Grantee and that the Grantee does not have the legal right to control the details of the tasks performed hereunder by the Subrecipient, its officers, members, agents, employees, sub-subrecipients, program participants, licensees or invitees.

The Grantee shall in no way nor under any circumstances be responsible for any property belonging to the Subrecipient, its officers, members agents, employees, sub-Subrecipients, program participants, licensees or invitees, which may be lost, stolen, destroyed or in any way damaged.

D. Indemnity

THE SUBRECIPIENT COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND, AT ITS OWN EXPENSE, THE GRANTEE AND ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS OR SUITS FOR PROPERTY LOSS OR DAMAGE AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF WHATSOEVER KIND OF CHARACTER, WHETHER REAL OR ASSERTED, ARISING OUT OF OR IN CONNECTION WITH THE EXECUTION, PERFORMANCE, ATTEMPTED PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT AND/OR THE OPERATIONS, ACTIVITIES AND SERVICES OF THE PROGRAM DESCRIBED HEREIN, WHETHER OR NOT CAUSED, IN WHOLE OR IN PART, BY ALLEGED NEGLIGENCE OF OFFICERS, AGENTS, SERVANTS, EMPLOYEES, SUBRECIPIENTS OR SUB-SUBRECIPIENTS OF THE GRANTEE; AND THE SUBRECIPIENT HEREBY ASSUMES ALL LIABILITY AND RESPONSIBILITY OF THE GRANTEE AND ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FOR ANY AND ALL CLAIMS OR SUITS FOR PROPERTY LOSS OR DAMAGE AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, ARISING OUT OF OR IN CONNECTION WITH THE EXECUTION, PERFORMANCE, ATTEMPTED PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT AND/OR THE OPERATIONS, ACTIVITIES AND SERVICES OF THE PROGRAMS DESCRIBED HEREIN, WHETHER OR NOT CAUSED, IN WHOLE OR IN PART, BY ALLEGED NEGLIGENCE OF OFFICERS, AGENTS, SERVANTS, EMPLOYEES, SUBRECIPIENTS OR SUB-SUBRECIPIENTS OF GRANTEE. THE SUBRECIPIENT LIKEWISE COVENANTS AND AGREES TO AND DOES HEREBY INDEMNIFY AND HOLD HARMLESS GRANTEE FROM AND AGAINST ANY AND ALL INJURY, DAMAGE OR DESTRUCTION OF PROPERTY OF THE GRANTEE, ARISING OUT OF OR IN CONNECTION WITH ALL ACTS OR OMISSIONS OF THE SUBRECIPIENT, ITS OFFICERS, MEMBERS, AGENTS, EMPLOYEES, SUB-SUBRECIPIENTS, INVITEES, LICENSEES, OR PROGRAM PARTICIPANTS, OR CAUSED, IN WHOLE OR IN PART, BY ALLEGED NEGLIGENCE OF OFFICERS, AGENTS, SERVANTS, EMPLOYEES, SUBRECIPIENTS OR SUB-SUBRECIPIENTS OF THE GRANTEE.

E. Waiver of Immunity

If the Subrecipient, as a charitable or nonprofit organization, has or claims an immunity or exemption (statutory or otherwise) from and against liability for damages or injury, including death, to persons or property, the Subrecipient hereby expressly waives its rights to plead defensively such immunity or exemption as against the Grantee. This section shall not be construed to affect a governmental entity's immunities under constitutional, statutory or common law.

F. Insurance and Bonding

1. Public Liability Insurance

The Subrecipient shall furnish a Certificate of Insurance as proof that it has secured and paid for policies of public liability and automobile insurance covering all risks incident to or in connection with the execution, performance, attempted performance or nonperformance of this Agreement. The amounts of such insurance shall not be less than the maximum liability that can be imposed on the Grantee under the laws of the State of Texas. At present, such amounts are as follows:

Bodily injury or death, per person	$100,000
Bodily injury or death, per occurrence	$300,000
Property damage, per occurrence	$100,000

The Subrecipient understands that such insurance amounts shall be revised upward at the Grantee's option and that the Subrecipient shall revise such amounts within thirty (30) days following notice to the Subrecipient of such requirements.

2. Worker's Compensation Insurance

The Subrecipient also covenants and agrees to furnish the Grantee with a Certificate of Insurance as proof that it has obtained and paid for a policy of Workers' Compensation Insurance in the amounts required by State law, covering any and all employees of the Subrecipient active in the Program funded under this Agreement; and the Subrecipient agrees to require any sub-Subrecipients to carry adequate Workers' Compensation Insurance in the amounts required by State law.

Accordingly, if the Subrecipient has obtained worker's compensation insurance coverage through self-insurance, as provided by Texas Labor Code § 406.003, such documentation of self-insurance shall be provided to Grantee prior to, or with the submission of, the first reimbursement request.

3. Documentation of Insurance Coverage

The Subrecipient will submit to the Grantee documentation that it has obtained insurance coverage as required in this Agreement within thirty (30) days of the execution of this Agreement and prior to payment of any monies hereunder.

4. Payment and Performance Bonding

The Subrecipient will provide or cause to furnish the Grantee with Certificate of Insurance as proof that it has obtained and paid for a certificate of Payment Bond and Performance Bond, as required by 2 C.F.R. 200.304

G. Recognition of Grantee

The Subrecipient shall ensure recognition of the role of the Grantee in making services available through this Agreement. All facilities, publications and other items used, made available, or made possible through funds obtained pursuant to this Agreement shall be prominently labeled as having been funded by the Harris County Community Services Department. The Subrecipient shall maintain a "recognition file." Each instance of recognition shall be documented by including a copy or photograph of each such instance of recognition in the file. Original documents are the preferred means of documentation, but photocopies or photographs may be used when and where appropriate.

H. Travel

The Subrecipient must comply with Grantee travel guidelines for any travel paid for with funds provided under this Agreement.

I. Relocation, Acquisition and Displacement

The Subrecipient agrees to comply with 24 C.F.R. §570.606 relating to the acquisition and disposition of all real property utilizing Grant funds, and to the displacement of persons, businesses, non-profit organizations and farms occurring as a direct result of any acquisition of real property utilizing Grant funds. The Subrecipient agrees to comply with applicable Grantee Procedures and Policies concerning displacement of individuals from their residences, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

J. Copyright

If this Agreement results in any copyrightable material, the Grantee and/or HUD reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work for government purposes. The Grantee understands and agrees that Subrecipient is subject to the Texas Public Information Act and may have to release information and documentation to the public under this Agreement.

K. Cultural Resources

In accordance with the National Historic Preservation Act and the Antiquities Code of Texas, the Contractor shall not remove or disturb, or cause or permit to be remove or disturbed, any historical, archeological, architectural, or other cultural artifacts, relics, vestiges, remains, or objects or antiquity from the project site. In the event that such items are discovered on the project during construction activities, the Contractor shall immediately notify the Engineer. The site and the potentially significant material shall be

protected by the Contractor from further disturbance until a professional examination of them can be made and/or until clearance to proceed with construction has been provided by the Engineer.

L. Hazardous and Petroleum substances

If during the course of construction, the Contractor discovers hazardous or petroleum substances or wastes on the project site, then the Contractor shall immediately cease work in the area and remove all personnel from the area. The contractor shall temporarily close the area to the public, as well; temporary fencing or caution tape shall be installed around the area. The Contractor shall notify the Engineer immediately. Work in the area shall not be permitted until the Engineer has determined that safety and environmental issues have been properly addressed.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

The Subrecipient agrees to (1) comply with requirements set out in OMB Circular 2 C.F.R. 200.300; (2) adhere to the accounting principles and procedures required therein; (3) utilize adequate internal controls; and (4) maintain necessary source documentation for all costs incurred. The Subrecipient shall administer its Program in conformance with OMB Circular 2 C.F.R. 200.400 "Cost Principles" for all costs incurred whether charged on a direct or indirect basis.

Prior to close out of this Agreement, the Subrecipient must transmit to the Grantee Records sufficient for the Grantee to demonstrate that all costs under this "Agreement" met the Requirements of the Federal Award.

B. Record-Keeping, Reports, and Audits

1. Records to be Maintained

The Subrecipient shall maintain all records required by this Agreement, records required by 24 C.F.R. §570.506 and records that are pertinent to the activities to be funded under this Agreement, including but not be limited to:

a. Records providing a full description of each activity undertaken
b. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program
c. Records required to determine the eligibility of activities
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance
e. Records demonstrating compliance with citizen participation
f. Records demonstrating compliance regarding acquisition, displacement, relocation, and replacement housing.
g. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program

h. Financial records as required by 24 C.F.R. §570.502.
i. Agreements and other records related to lump sum disbursements to private financial institutions for financing rehabilitation
j. Other records necessary to document compliance with Subpart K of 24 C.F.R. Part 570.

2. Property Records

The Subrecipient shall maintain real property inventory records, which clearly identify property purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the restrictions specified in 24 C.F.R. § 570.505 and §570.606. The Subrecipient shall ensure that any independent audit required hereunder include a report on real property inventory as a supplemental schedule in the audit.

3. Retention

The Subrecipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement, or after the resolution of all Federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person, as defined at 42 U.S.C. 4601, as amended, must be kept for five (5) years after he/she has received final payment.

4. Construction Policies, Reports and Davis-Bacon and Related Acts Requirements

The Subrecipient shall ensure that each contract subject to Federal (Davis-Bacon and Related Acts) labor standards requirements must contain the appropriate HUD contract provisions containing the labor standards clauses described in **Exhibit C,** subpart 13. These clauses correspond to the Department of Labor (DOL) regulations prescribing the responsibilities of the contractor and obligating the contractor to comply with the labor requirements. The labor standards clauses also provide for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages, which may be found due.

The Subrecipient shall ensure compliance with the Davis-Bacon and Related Acts (DBRA) requirements. The Subrecipient shall furnish or cause to furnish documents evidencing compliance with the DBRA requirements, including but not be limited to the following:

a. Quarterly Employment Data Report
b. Certified Weekly Payrolls
c. Certificate From Contractor Appointing Officer or Employee to Supervise Payment of Employees
d. Posting of Equal Employment Opportunity Poster, Notice to Employees Poster, and Wage Decision(s)
e. Section 3 Employment and Women/Minority Business Plan

f. Certificate for Contracts, Grants, Loans and Cooperative Agreements
g. General Contractor/ Subcontractor Profile
h. Section 3 compliance documents

NOTE: All of the above listed documents pertaining to the DBRA are required to be submitted by the prime contractor, all subcontractors and all without exceptions.

5. Other Periodic Reports

The Subrecipient shall furnish the following reports to the Grantee, which include, but may not be limited to the following:

a. Certifications for Contracts, Grants, Loans, and Cooperative Agreements (See **Exhibit D**)
b. The following reports, as detailed in **Exhibit A,** shall be submitted annually to the Grantee for public facility projects following completion of work as specified in Section III of this Agreement:
    i. Annual Compliance Report

6. Deadlines

a DBRA compliance documents shall be submitted during the course of project construction pursuant to the deadlines set in the bid specifications and **Exhibit C**
b Annual compliance reports are due within one month after the end of the reporting period, which commences following completion of work as specified in Section III of this Agreement

7. Audits & Inspections

All records relevant to any matters covered by this Agreement shall be made available to the Grantee, its designees or the Federal government, at any time during normal business hours, as often as the Grantee or other agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. The Subrecipient will respond to the notification of any deficiencies noted in audit reports within thirty (30) days after receipt by the Subrecipient. Any deficiencies must be fully cleared by the Subrecipient. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with 2 CFR 200.500 or if not applicable, financial statements in accordance with AICPA's SSARS No.21 for review and compilations.

8. Failure to Meet Record-Keeping, Reporting, Audit, and/or Inspection Requirements

The Subrecipient's failure to comply with record-keeping, reporting, audits, and/or inspections as required by this Agreement is a breach of this Agreement and funding will be withheld from the Subrecipient until such time as the reports are timely and accurately submitted. The Grantee maintains the right to terminate this Agreement

with the Subrecipient for failure to keep records properly, submit reports for three (3) consecutive months, and/or cooperate with audits/inspections.

C. Procurement

1. Compliance

The Subrecipient shall comply with the (1) public notice and (2) award of contract to the lowest and most responsible bidder procedures of the County Purchasing Act, TEX. GOV'T CODE §262.021 *et seq.*, concerning the purchase of equipment and services and shall maintain an inventory record of all non-expendable personal property, as defined by Grantee policy, that may be procured with funds provided hereunder. The Subrecipient shall procure property and services in accordance with the requirements of 2 C.F.R. 200.326 and shall subsequently follow, "Property Management Standards," covering utilization and disposal of property.

2. Use of Real Property

Pursuant to 24 C.F.R. §570.505, any real or personal property under the Subrecipient's control that was acquired or improved in whole or in part with CDBG funds must either be:

(a) Used by the Subrecipient for eligible activities pursuant to 24 C.F.R. §570.200 that meet one of the National Objectives in 24 C.F.R. §570.208 until five (5) years after expiration or termination of this Agreement pursuant to Section III "Time of Performance," or for such longer period of time as determined to be appropriate by the Grantee; or

(b) Transferred to the Grantee; or

(c) Changed use, in which event the Subrecipient shall provide affected citizens reasonable notice of, and opportunity to comment on, any proposed change, and either: (1) the new use of such property qualifies as meeting one of the National Objectives in 24 C.F.R. §570.208 or (2) the new use does not meet one of the National Objectives set out in 24 C.F.R. §570.208, in which event the Subrecipient may retain and utilize the property and shall pay to the Grantee an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. No payment shall be required after the period of time specified in paragraph (a) of this section expired; or

(d) Disposed of in a manner, consistent with 24 C.F.R. §570.505 and 2 C.F.R. §200.311, which results in the amount of the then current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvements to, the property being reimbursed to the Grantee. Such reimbursement shall not be required if disposed of after the period of time specified in paragraph (a) of this section expired.

(e) The facility must meet the accessibility requirements detailed at 24 C.F.R. Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered facilities, as defined at 24 C.F.R. §100.201, must also meet the design and construction requirements at

24 C.F.R. §100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619).

Nothing contained herein shall be construed to conflict with the duties of the Subrecipient as set forth in the Texas Non-Profit Corporation Act (TEX. CIV. STAT. ANN. art.1396-1.01, *et seq.)* or any other applicable statue.

IX. GENERAL LABOR AND PARTICIPANT REQUIREMENTS

A. Civil Rights

1. Compliance

The Subrecipient shall comply with Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 109 of Title 1 of the Housing and Community Development Act of 1974; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; Executive Order 11063; and Executive Order 11246 as amended by Executive Orders 11375 and 12086; and all other applicable requirements of 24 C.F.R. Part 570, Subpart K.

The Subrecipient shall comply with any federal regulations issued pursuant to Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 as amended), which prohibits discrimination against the handicapped in any federally assisted program. The Grantee shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

2. Nondiscrimination

The Subrecipient shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital status, or status with regard to public assistance. The Subrecipient shall take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Subrecipient setting forth the provisions of this nondiscrimination clause. The Subrecipient shall also abide by Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 *et seq.*), which prohibits sex discrimination in federally assisted education programs.

3. Limited English Proficiency

Subrecipient shall provide language assistance or ensure program information is available in the appropriate languages for the Grantee's service area and that limited

English proficient persons have meaningful access to CDBG assistance, pursuant to Title VI of the Civil Rights Act of 1964.

B. Affirmative Action

1. Approved Plan

The Subrecipient shall be committed to carry out, pursuant to the Grantee's specifications, an Affirmative Action program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program, upon request. The Subrecipient shall submit a plan for an Affirmative Action program for approval prior to the award of funds, if applicable.

2. Women/Minority Business Enterprise

The Subrecipient shall use its best efforts to afford minority- and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and women business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and women business enterprises in lieu of an independent investigation.

3. Notifications

The Subrecipient shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other agreement or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. EEO/AA Statement

The Subrecipient shall, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action Employer, as applicable.

5. Grievance

The Subrecipient shall establish and maintain written procedures to address grievances or complaints of employees or Program participants under this Agreement. The Subrecipient's written procedures should provide for employees

or participants to contact HCCSD only after the complainant has exhausted the Subrecipient's internal procedures. The Subrecipient shall notify all employees and Program participants of its grievance procedure. Such notification must include the telephone number to reach HCCSD. The Subrecipient shall immediately notify HCCSD of all grievances or complaints received by the Subrecipient.

C. Labor Standards

1. Wages

The Subrecipient shall comply with the requirements of the Secretary of Labor issued in accordance with the provisions of Contract Work Hours and Safety Standards Act [40 U.S.C. 3701 *et seq.*], as supplemented by Department of Labor regulations; the Copeland "Anti-Kickback" Act [18 U.S.C. 874]; the Davis-Bacon Act [40 U.S.C. 3141 *et seq,*. as amended]; and all other applicable Federal, state and local laws and regulations pertaining to labor standards, insofar as those acts apply to the performance of this Agreement. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this section. Such documentation shall be made available to the Grantee for review upon request. The Subrecipient shall also abide by Chapter 11 of Title 18 of the U.S. Code [18 U.S.C. 201 *et seq.*], which prohibits a number of criminal activities, including bribery, graft and conflict of interest.

2. OSHA

Where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participant's health or safety.

3. Drug Free Workplace

All profit or non-profit agencies or organizations receiving state or Federal grant funds under the official sponsorship of the Grantee must certify on an annual basis their compliance with the requirements of the "Drug Free-Workplace Act of 1988." Employees are specifically prohibited from manufacturing, distributing, possessing, purchasing, and using illegal drugs or controlled substances in the workplace or in any other facility, location or transport in which the employee is required to be present in order to perform his or her job function.

D. Prohibited Activity

The Subrecipient is prohibited from using CDBG funds or personnel employed in the administration of this Program for political activities, sectarian/religious activities, lobbying, political patronage, and/or nepotism activities.

1. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

2. Religious Organization

The Subrecipient agrees that funds provided under this Agreement shall not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization, in accordance with the federal regulations specified in 24 C.F.R. §570.200.

E. Conflict of Interest

The Subrecipient shall abide by the provisions of 24 C.F.R. §570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement, no person having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the Grantee, or of any designated public agencies or subrecipients that are receiving funds under the CDBG Entitlement program.

In applying for CDBG funds, the Subrecipient provided the Grantee with disclosure of the nature of any perceived or actual conflict of interests. If at any time during the course of the term of this Agreement any actual or perceived conflict of interest arises, the Subrecipient agrees to provide a new Conflict of Interest Disclosure form (**Exhibit E**) to the Grantee. Failure to disclose any perceived or actual conflicts of interest may result in termination of this Agreement.

F. Conflicts Disclosure Statement and Conflict of Interest Questionnaire

The Subrecipient shall comply with the provisions of Chapter 176 of the Local Government Code with respect to conflicts of interest a local government officer or vendor may have when contracting or seeking to contract with the Grantee. Chapter 176 of the Local Government Code requires persons desiring to do business with the Grantee to disclose any gifts, with the aggregate value of $250, given to any local government officer or the local government officer's family member, or employment or other business relationship that the person may have with a local government officer or the local government officer's family members, during the preceding twelve (12) month period.

In applying for CDBG funds, the Subrecipient provided the Grantee with disclosure of the nature of any perceived or actual conflict of interests. The Subrecipient covenants that the Conflicts Disclosure Statement (**Exhibit F**) and/or the Conflict of Interest Questionnaire (**Exhibit G**) have been filed with the Grantee's records administrator, the Harris County Clerk, within the requirements of Chapter 176 of

the Local Government Code. Failure to disclose any perceived or actual conflict of interests may result in termination of this Agreement.

G. False Claims

The Subrecipient shall abide by 18 U.S.C. 286, which provides for conspiracy to defraud the Federal Government with Respect to Claims. In addition, the Subrecipient will also abide by the False Claims Act (31 U.S.C. 3729 *et seq.*); 18 U.S.C. 287 relating to False, Fictitious and Fraudulent Claims; 18 U.S.C. 245, as amended, relating to Federally Protected Activities; 18 U.S.C. 1001, as amended, regarding General Statements or Entries; the Program Fraud Civil Remedies Act (31 U.S.C. 3801 *et seq.*); the Federal Claims Collection Act of 1966 (31 U.S.C. 3701, 3711, 3716 to 3718), as amended by the Derby Collection Act of 1982; the Meritorious Claims Act (31 U.S.C. 3702); the Tucker Act (28 U.S.C. 1346, 1491 and 2501 *et seq.*); the Wunderlich Act (41 U.S.C. 321-322); the Anti-Deficiency Act (31 U.S.C. 1341 *et seq.*); and Section 208(a) of the Intergovernmental Personnel Act of 1970, as amended.

H. "Section 3" Clause

1. Compliance

The Subrecipient shall comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, the regulations set forth in 24 C.F.R. §135, and all applicable rules and orders. The Subrecipient understands that compliance shall be a condition of the federal assistance provided under this Agreement and binding upon the Grantee, the Subrecipient and any sub-subrecipients. Failure to comply with these requirements shall subject the Grantee, the Subrecipient and any sub-subrecipients, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided, and as set out in 24 C.F.R. §135, Subpart D. The Subrecipient agrees that no contractual or other disability exists which would prevent compliance with these requirements. The Subrecipient shall include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this contract is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the areas of the project."

2. Notifications

The Subrecipient shall send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or

understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

3. Subcontracts

The Subrecipient shall include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the sub-subrecipient is in violation of regulations issued by the Grantee. The Subrecipient will not subcontract with any sub-subrecipient which it has notice or knowledge that the latter has been found in violation of regulations under 24 C.F.R. §135 and will not let any subcontract unless the sub-subrecipient has first provided it with preliminary statement of ability to comply with the requirements of these regulations.

I. Subcontracts

1. Approvals

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the Grantee prior to the execution of such agreement.

2. Monitoring

The Subrecipient shall monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports submitted to the Grantee and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

3. Content

The Subrecipient shall cause all of the provisions of this Agreement, by preference, in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

4. Selection Process

The Subrecipient shall insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair, open, and competitive manner. Executed copies of all subcontracts shall be forwarded to the Grantee, along with documentation concerning the selection process. The Subrecipient must adopt and utilize written selection criteria for use in the selection of subcontractors, which selection criteria must conform to the Procurement requirements of 2 C.F.R. §200.318.

J. Whistleblower Protection Act

The Grantee Sponsor and its employees will be subject to all employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-230) and FAR 3.908. The Grantee Sponsor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation. The Grantee Sponsor shall insert the substance of this clause, including this paragraph (J), in all subcontracts providing services under this Agreement.

X. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Subrecipient shall comply with the following regulations insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. §7401 *et seq.*
- Clean Water Act, 33 U.S.C. 1368.
- Executive Order 11738.
- Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.*, and 1318 and 1321, relating to inspection, monitoring, entry, reports, and information, and all regulations guidelines issued there under.
- Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R. Part 50, as amended.
- National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*; as amended).
- HUD Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58).

B. Flood Disaster Protection

The Subrecipient shall comply with the requirements of the Flood Disaster Protection Act of 1973 (P.L.-2234) in regard to the sale, lease or other transfer of land acquired, cleared or improved under the terms of this Agreement, as it may apply to the provisions of this Agreement.

C. Lead-Based Paint

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 C.F.R. §570.608 and 24 C.F.R. Part 35, and in particular Sub-Part B thereof. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning, and of the advisability and availability of blood-level screening for children under 6 years of age.

D. Historic Preservation

The Subrecipient shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 C.F.R. Part 800, "Protection of Historic Properties," insofar as they apply to the performance of this Agreement. In general this requires concurrence from the Texas Historical Commission and Antiquities Committee for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, state, or local historic property list.

E. Wildlife Protection

The Subrecipient shall comply with the requirements of the Endangered Species Act of 1973 as listed in 50 C.F.R. §17.11 and 50 C.F.R. Part 402; the Lacey Act (16 U.S.C. 3371-3378 *et seq.*, as amended); the Migratory Bird Treaty Act (16 U.S.C. 703-12); the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); Section 4(f) of the Department of Transportation Act (49 U.S.C. 303); the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*); the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451); and the Safe Drinking Water Act of 1974 (42 U.S.C. 300f *et seq.*, as amended), insofar as they apply to the performance of this Agreement.

XI. ASSIGNMENTS AND AMENDMENTS

A. Assignability

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee. Notice of any such permitted assignment or transfer shall be furnished promptly to the Grantee.

B. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

Additionally, the Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendment results in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be affected only by written Amendment signed by both the Grantee and Subrecipient. At the discretion of HCCSD management, no more than two (2) Amendments to the Agreement shall be allowed each year.

XII. TERMINATION OF AGREEMENT

A. Automatic Termination

This Agreement automatically terminates at the end of the time of performance as specified in Section III., "Time of Performance," of this Agreement.

B. Termination Without Cause

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination. In the event of termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement shall become the property of the Grantee, and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination, unless HUD has determined through monitoring and/or investigative practices, that the Subrecipient is not entitled to such compensation.

C. With Cause

The Grantee may terminate this Agreement for cause, in whole or in part, if the Subrecipient fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and the Grantee may declare the Subrecipient ineligible for any further participation in the Grantee CDBG Entitlement Agreements, in addition to other remedies as provided by law. If the Grantee has cause to believe the Subrecipient is in noncompliance with this Agreement or any applicable rules and regulations, the Grantee may withhold up to twenty-five (25) percent of said Agreement funds until such time as the Subrecipient is found to be in compliance by the Grantee, or is otherwise adjudicated to be in compliance.

D. Partial Terminations

Partial terminations of the Scope of Services in **Exhibit A** may only be undertaken with the prior approval of the Grantee.

E. Breach of the Agreement

Termination of this Agreement shall not relieve the Subrecipient of liability for any breach of this Agreement that occurs prior to such termination or expiration.

F. Close-outs

The Subrecipient's obligation to the Grantee shall not end until all closeout requirements described in 2 C.F.R. §200.343 are completed to the satisfaction of the Grantee and the Harris County Auditor. Activities during this close-out period shall include, but are not limited to, making final payments, disposing of Program assets, including the return to the Grantee of all unused materials, equipment,

unspent cash advances, Program income balances, and accounts receivable, and determining the custodianship of records.

G. Reversion of Assets

Upon expiration or termination of the term of this Agreement, the Subrecipient shall transfer to Grantee any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. For any year following the expiration or termination of this Agreement that the Subrecipient holds personal property attributable to funds hereunder, the Subrecipient shall submit an Annual Report of Personal Property identifying the property and its location, with such report being filed with the Grantee and the Harris County Auditor.

XIII. AGREEMENT REQUIREMENTS

Notwithstanding any provision of this Agreement, the Subrecipient is required to comply with only the federal, state, and local regulations applicable to the specific federally assisted program associated with this Agreement.

XIV. INCORPORATION OF EXHIBITS

The following documents are a part of this Agreement:

Exhibit A	Scope of Services
Exhibit B	Budget
Exhibit C	Harris County Community Services Department Subrecipient Construction Policies & Guidelines
Exhibit D	Certification for Contracts, Grants, Loans and Cooperative Agreements
Exhibit E	Conflict of Interest
Exhibit F	Conflicts Disclosure Statement
Exhibit G	Conflict of Interest Questionnaire
Exhibit H	Deed of Trust to Secure Performance (Sample)
Exhibit I	Required Federal Grant Contract Provisions
Exhibit J	CDBG-DR Federal Regulations
Exhibit K	GLO Information Security Appendix

ATTEST:

By:_____

Name:_____

CITY OF DEER PARK

By:_____

Name:_____

Title:_____

Date Signed: _____

APPROVED AS TO FORM:

VINCE RYAN
Harris County Attorney

By:_____
SARAH IBRAHIM
Assistant County Attorney

File Number: _____

HARRIS COUNTY

By:_____
JOSHUA STUCKEY
Interim Director, Harris County Community Services Department

Date Signed:_____

Exhibit A, SCOPE OF SERVICES

I. Application

This Scope of Services is based on the proposal prepared and submitted by the Subrecipient, through the Harris County Community Services Department's Disaster Recovery Request for Proposal (RFP) process. However, in the event of any conflict between the proposal and any provision contained herein, this Agreement shall control. In addition to the activities listed below, the Subrecipient agrees to operate this Project in accordance with Community Development Block Grant Disaster Recovery Program requirements and all other applicable Federal, state, and local regulations.

II. Project Description

The Subrecipient shall be responsible for implementing the Bayou Bend Regional Detention Facility and Drainage Improvements Project during the term of this Agreement. The scope of the Project is to construct a new thirty-five acre-feet (35 AF) detention pond and associated site work, rehabilitate and install storm sewer with concrete pipes, grade ditches, install storm sewer inlets, culverts and complete associated appurtenances. The project area is generally bound on the North by Pickerton Drive, South by Temperance Lane, East by Center Street, and West by Drainage Ditch B114-00-00.

The Subrecipient shall administer all activities in the provision of the aforementioned public infrastructure improvements Project in accordance with all applicable Federal, state, and local rules and regulations governing these funds, and in a manner satisfactory to the Grantee.

The Subrecipient shall ensure that personnel providing services under this Agreement have all licenses required by law and/or are qualified to perform the services required under this Agreement. The Subrecipient shall further ensure that all Program and/or facility licenses necessary to provide the required services are current and that HCCSD shall immediately be notified if any such required licenses become invalid or are canceled during the term of this Agreement.

III. Activities

The Subrecipient shall be responsible for the delivery of the following activities in connection with the provision of the above-noted Project. The activities and the submission of reports and compliance documents shall include, but not be limited to the budget line item categories listed in the budget detail of **Exhibit B** and as detailed further below:

ACTIVITIES, SCHEDULE, AND REQUIRED DOCUMENTS

No.	Activity Name	Schedule	Reports and Compliance Documents
II.	**Construction**		
1.	Design	Within sixty (60) days from the date of this Agreement, the Subrecipient shall submit the compliance documents to the Grantee for review and approval.	Final set of drawings, plans, cost estimates, bid specifications and construction documents
2.	Bid Out	Within fifteen (15) days after the Grantee's approval of the bid specifications, the Subrecipient shall advertise the project for at least two (2) consecutive weekends.	Copy of bid advertisement with affidavit
3.	Pre-bid Conference	The Subrecipient shall hold a Pre-bid Conference, at least one week before bids are due.	Copy of attendance roster and meeting notes
4.	Bid Opening	The Subrecipient shall hold a Bid Opening, at a minimum of two (2) weeks after the initial advertisement of project.	N/A
5.	Bids, Bid Tabulation and Recommendations	Within fifteen (15) days from the date of the Bid Opening, the Subrecipient shall submit the compliance documents to the Grantee for review and approval.	Copy of all bids, bid bonds, tabulation and recommendations
6.	Notice of Award DRAFT Construction Contract	Within fifteen (15) days after the Grantee's approval of the lowest and most responsible bid the Subrecipient shall issue the Notice of Award to the contractor. Within forty-five (45) days after the Grantee's written approval of the lowest and most responsible bid, the Subrecipient shall submit the compliance document to the Grantee for review and approval.	Copy of Notice of Award Copy of the draft construction contract
7.	Executed Construction Contract	Within fifteen (15) days after the Grantee's approval of the draft construction contract, the Subrecipient shall execute the construction contract.	ORIGINAL copy of the executed construction contract
8.	Pre-construction Conference	Within seven (7) days after the date of the executed construction contract, the Subrecipient shall hold the Pre-construction Conference.	Copy of attendance roster and meeting notes
9.	Construction Start Date	Within thirty (30) days of the date of the Executed Construction Contract, the Subrecipient shall issue the Notice to Proceed to the contractor. The Grantee Sponsor shall ensure that the construction commences within thirty (30) days of the Notice to Proceed.	Copy of Notice to Proceed
10.	DBRA Compliance Documents	Within seven (7) days of the Construction Start Date and during the project construction, the Subrecipient shall submit or cause to be submitted original compliance documents on a weekly basis.	ORIGINAL DBRA compliance documents
11.	Survey, Inspection, and Testing	The Subrecipient shall perform survey, inspection and testing during the course of implementing the project, as applicable.	Copy of survey, inspection and testing reports, as applicable
12.	Final Walkthrough and Final Punch List	At the completion of the construction activities, the Subrecipient shall hold a Final Walkthrough and issue the Final Punch List, as applicable	Copy of Final Punch List, if applicable
13.	Certificate of Completion,	Within five (5) days of completion of construction	Copy of Certificate of Completion
III.	**Five Year Compliance**		
1.	Five Year Compliance	Certificate of Completion for non-building projects	Substantial Completion document

Time/Date variances to the schedule may be approved by the Executive Director of the HCCSD, or his designee, if reasonable justification is provided for the delay.

The Subrecipient shall forward compliance documents upon completion of the activity, or as noted in the schedule.

In addition to normal administrative services required as part of this Agreement, the Subrecipient agrees to document progress using reporting requirements specified in Section VIII of this Agreement.

IV. Notice

Grantee	Subrecipient
Joshua Stuckey, Interim Director	Jerry Mouton, Jr., Mayor of the City of Deer Park
Harris County Community Services Department 8410 Lantern Point Houston, Texas 77054	710 E. San Augustine Avenue Deer Park TX 77536

Exhibit B, BUDGET

CITY OF DEER PARK
BAYOU BEND REGIONAL DETENTION FACILITY AND DRAINAGE IMPROVEMENTS PROJECT

Maximum Amount to be Paid Under this Agreement

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed TWO MILLION NINE HUNDRED TWENTY THOUSAND FIVE HUNDRED and 00/100 Dollars ($2,920,500.00), as certified available by the Harris County Auditor and as evidenced by the issuance of a Purchase Order from the Harris County Purchasing Agent.

PROJECT SUMMARY

DESCRIPTION	CSD (CDBG)	LEVERAGE	TOTAL
Project Costs			
I. Architectural/Engineering Design	$348,000.00	$0.00	$348,000.00
II. Construction	$2,572,500.00	$0.00	$2,572,500.00
Project Budget Total	**$2,920,500.00**	**$0.00**	**$2,920,500.00**

CDBG-DR PY2017 $2,920,500.00

PROJECT DETAIL

Project Costs	CSD (CDBG)	LEVERAGE	TOTAL
I. Architectural/Engineering Design			
Architectural/Engineering Design Plans	$348,000.00	$0.00	$348,000.00
Subtotal	**$348,000.00**	**$0.00**	**$348,000.00**
II. Construction			
Construction (new construction, rehabilitation, renovation)	$2,572,500.00	$0.00	$2,572,500.00
Subtotal	**$2,572,500.00**	**$0.00**	**$2,572,500.00**
Project Detail Total	**$2,920,500.00**	**$0.00**	**$2,920,500.00**

Exhibit C, HARRIS COUNTY COMMUNITY SERVICES DEPARTMENT SUBRECIPIENT CONSTRUCTION POLICIES & GUIDELINES

These policies are intended to assist those Subrecipients receiving Harris County Community Development Block Grant funds. They will facilitate the Subrecipient's understanding and compliance with applicable federal and county regulations, policies and processes where the Subrecipient is responsible for design, bidding and construction contract administration. If clarification is needed, call David Beck, Infrastructure Program Manager at 832-927-8200.

1. If federal funds will be used to retain consultants, the Subrecipient must advertise Request for Qualification Statement (RFQ). The Subrecipient shall submit the draft RFQ for approval prior to advertisement. The responding consultant's SF 330 qualification statements must be submitted for review to Harris County Community Services Department (HCCSD) prior to commissioning the consultants. Upon approval by HCCSD, the Subrecipient may retain consultant(s).

   A. Subrecipient shall submit all plans, drawings and specifications prepared by the consultant for the project for approval by HCCSD.
   B. Consultants retained by the Subrecipient shall include in the project specifications project construction time limits with liquidated damages to ensure timely completion of the project.

2. The Subrecipient shall advertise for bids and award contracts in compliance with the State of Texas bidding procedures and the following subsections of 2 C.F.R. 200 :

Section 200.302	"Financial Management", except subparagraph a
Section 200.318	"General Procurement Standards"
Section 200.333	"Retention Requirements for Records"
Section 200.336	"Access to Records"

1. The preliminary drawings must be within the previously approved project scope. All construction projects must comply with Harris County requirements and the policies and procedures of Harris County Engineering Department (HCED), Purchasing Agent, Auditor and HCCSD.

4. Mitigation measures, if any, will be incorporated into project drawings, plans and construction documents. HCED will confirm and document mitigation measures are addressed in 90% plan review comments.

5. The Subrecipient will incorporate into the construction documents any and all Department of Housing and Urban Development requirements and all construction policies and guidelines contained herein. Final documents must be approved by HCCSD prior to the execution of the contract for construction.

6. Prior to award of contract, HCCSD will review the bid documents, the bidder's qualification statements, minority business plan and financial statements to ensure that the contractor has a good contracting record, adequate capitalization, equipment, and personnel to successfully complete the project, meets minority participation goals and that the bidder has not been debarred by HUD from working on federal contracts.

7. The Subrecipient, the consultant, and HCCSD shall conduct a pre-bid meeting and a pre-construction conference with the contractor(s).

8. The Grantee shall furnish the Subrecipient with specific compliance documentation at the pre-construction conference with the contractor. Without exception, the Subrecipient and the contractor shall be responsible for ensuring compliance by **all** subcontractors working on the project jobsite with employees covered by the Davis-Bacon Act.

9. The Subrecipient shall, at its sole expense, furnish the necessary inspection personnel to assure itself of compliance with the construction contract. The Subrecipient understands and agrees to inspections performed by the Grantee's representative, HCED. The Subrecipient understands and agrees that HCED shall have full and final authority in all construction disputes.

10. HCED in consultation with the project architect/consultant will review and track implementation of mitigation measures for progress and until compliance is documented.

11. The Subrecipient and contractor shall be responsible for preparing monthly pay requests to be reviewed by the consultant prior to submittal for payment. Preparation will consist of a site meeting with the consultant and the contractor's representative to accurately determine the percentage of completion of various components of the work and time used. The Subrecipient, the consultant, the contractor, and HCED, representative on behalf of HCCSD, will be required to sign each monthly estimate prior to being processed for payment.

12. All change orders must be approved in writing by the Subrecipient prior to any alterations or modifications of the work or specifications. The Subrecipient will be responsible for any increase in cost based on any change order required due to errors and/or omissions. Pursuant to Harris County procurement policies and Texas Local Government Code §271.060, as amended, the Subrecipient must ensure that (1) cumulative increases in the construction contract amount shall not exceed twenty-five percent (25%) of the **original contract amount** for contracts awarded at $1 million or more, and (2) if a change order for a contract awarded below $1 million increases the contract amount to $1 million or more, subsequent change orders may not increase the **revised contract amount** by more than twenty-five percent (25%).

13. The Subrecipient must submit the following documentation to HCCSD **prior** to sending Notice of Award to proposed contractor and execution of the construction contract.

Prior to sending Notice of Award:

- Copy of the bid advertisement.
- Copy of the bid tabulations.
- Copies of all bids submitted.
- Copies of bidders' bid bonds or cashier's checks or letters or credit in favor of Harris County, in a form acceptable to the Harris County.
- Copy of the minutes and attendance roster of the bid opening.
- Consultant's recommendation of contractor.
- Request authorization from HCCSD to award project to lowest and most responsible bidder.

Prior to execution of contract:

- Copy of DRAFT Construction Contract with contractor for HCCSD review and approval.
- Copy of proposed subcontractor list along with subcontractor profiles.
- Section 3 Employment and Minority Business Plan – completed by the contractor.
- Section 3 compliance documents.
- Certificates for Contracts, Grants, Loans and Cooperative Agreements – signed by the contractor.

14. The Subrecipient must submit the following documentation **after** award of contract, but **prior** to Pre-Construction Meeting:
    - Copy of the performance, payment and maintenance bonds.
    - Copy of "Certificate of Authority" issued by the State Board of Insurance of Texas for the surety company. Only companies listed in the Department of the Treasury circular #570 (most recent issue) will be accepted.

- Certification of bid award by the City Council/Board.
- Original copy of the executed contract between the successful bidder and the Subrecipient.
- Copy of the purchase order.
- Copy of subcontractor list.
- Schedule of Values based on standard Construction Specifications Institute (CSI) format (16 divisions) and given in labor and materials listed separately per line item including overhead and profit for each.
- Construction schedule (Bar Chart or Critical Path Method).

15. Davis Bacon and Related Acts Requirements

The Subrecipient shall ensure compliance with the Davis-Bacon and Related Acts requirements and shall furnish or cause to furnish the required reports documenting compliance with the Davis-Bacon and Related Acts requirements.

Basic labor standards compliance parameters involve the payment to construction laborers and mechanics not less than the prevailing wage rate established in the wage determination for the type (classification) of work and the hours of work they actually performed. Contractors and subcontractors and any lower-tier subcontractors (employers) are required to prepare, certify and submit weekly payroll reports reflecting all of the laborers and mechanics (employees) engaged in construction of the site of the work. The certified payrolls must clearly indicate name, address, social security number, job classification, corresponding hourly pay rate, hours worked, and any other pertinent information requested on the form. Employers may also be required to submit related documents in order to demonstrate compliance with these standards. The Grantee will not accept incomplete certified payrolls. All required documentation and forms submitted to Grantee must be originals.

Each contract subject to Federal (Davis-Bacon & Related Acts) labor standards requirements must contain the appropriate HUD contract provisions containing the labor standards clauses. These clauses correspond to the U.S. Department of Labor (DOL) Regulations prescribing the responsibilities of the contractor and obligating the contractor to comply with the labor requirements. The labor standards clauses also provide for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages, which may be found due. These contract clauses are described below.

A. Responsibility of the Principal Contractor.

Basic labor standards compliance parameters involve the payment to all construction laborers and mechanics not less than the prevailing wage rate established in the wage determination for the type (classification) of work and the hours of work they actually perform. Contractors and subcontractors and any lower-tier subcontractors (employers) are required to prepare, certify and submit weekly reports reflecting all of the laborers and mechanics (employees) engaged in construction of the site of the work. Employers may also be required to submit related documentation in order to demonstrate compliance with these compliance parameters.

The principal contractor (also referred to as the prime contractor or general contractor) shall be responsible for the full compliance of all employers (contractors, subcontractors, and any lower-tier subcontractors) with the labor standards provisions applicable to the project. For ease of reference, the term “contractor” shall mean the principal, prime contractor, or general contractor, “subcontractor” shall mean any and all subcontractors and lower-tier subcontractors, and the term “employer” shall include the contractor and any subcontractors and lower-tier subcontractors.

B. Davis-Bacon Definitions & Compliance Parameters

(ii) Definitions.

a. Laborer or mechanic. "Laborers" and "mechanics" are those individuals whose duties are manual or physical in nature including workers who are performing the work of a trade (e.g., Electrician). These terms include apprentices, trainees and, for contracts subject to CWHSSA, watchmen and guards. "Laborers" and "mechanics" are the two groups of workers that shall be paid not less than the Davis-Bacon wage rates.

- **Working foremen.** Foremen or supervisors that perform regularly construction work and devote **more** than 20% of their time as a laborer or mechanic are treated as "laborers" or "mechanics" for labor standards purposes for the time performing construction work.

- **Exclusions.** Persons whose duties are primarily administrative, managerial or clerical are not laborers or mechanics.

b. Employee. Every person who performs the work of a laborer or mechanic is "employed" regardless of any contractual relationship, which may be alleged to exist between a contractor or subcontractor and such person. This means that even if there is a contract between a contractor and a worker, the contractor shall ensure the worker is paid at least as much as the wage rate on the wage decision for the classification of work they perform. Note that there are no exceptions to the prevailing wage requirements for relatives or for self-employed laborers and mechanics.

See also Labor Relations Letter LR-96-01, Labor standards compliance requirements for self-employed laborers and mechanics.

c. Apprentices and Trainees. The only workers who can be paid less than the wage rate on the wage decision for their work classification are "apprentices" and "trainees" registered in approved apprenticeship or training programs, including *Set-Up* apprenticeship programs designed for Davis-Bacon construction work. Approved programs (bona fide programs) are those which have been registered with DOL or DOL-recognized State Apprenticeship Council (SAC).

1) Probationary apprentice. A person in the first 90 days of probationary employment as an apprentice in a bona fide apprenticeship program but who has not yet been formally registered in such a program may be considered an "apprentice" provided that the BAT or SAC has certified that such person is eligible for probationary employment as an apprentice.

2) Pre-apprentice. A "pre-apprentice" person who has not been DOL or SAC certified for probationary apprenticeship is not considered to be an "apprentice" and shall be paid in full journeyman's rate on the wage decision for the classification of work they perform.

3) Ratio of apprentices and trainees to journey man. The maximum number of apprentices or trainees that you can use on the job site cannot exceed the ratio of apprentices or trainees to journeymen allowed in the approved program.

d. Prevailing Wages. The term "wages" means the basic hourly rate of pay plus any contribution irrevocably made by an employer to a bona fide fringe benefit fund, plan or program. All laborers and mechanics employed or working on the site of the work shall be

paid unconditionally and not less often than once a week the full amount of wages and bona fide fringe benefits computed at rates not less than those contained in the wage determination. Employers who do not make contributions or payments to bona fide fringe benefit funds, plans, or programs shall pay an amount equivalent to the fringe benefit rate (if any) required on the wage determination directly to the employee added to the basic hourly rate of pay.

e. **Piece-work**. Some employees are hired on a piece-work basis, that is, the employee's earnings are determined by a factor of work produced. For example, a Drywall Hanger's earnings may be calculated based upon the square feet of sheetrock actually hung, a Painter's earnings may be based upon the number of units painted. Employers may calculate weekly earnings based upon piece rates **provided** the weekly earnings are sufficient to satisfy the wage requirement based upon actual hours, including any overtime, worked. If the weekly piece rate earnings are not sufficient, the employer shall re-compute weekly earnings based upon actual hours worked and the rate on the wage decision for the work classification(s) involved.

f. **Fringe benefits** include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the above; unemployment benefits, life insurance, vacation or holiday pay; defraying costs of apprenticeship or similar programs; or other bona fide fringe benefits. In addition to contributions, fringe benefits may reflect the rate of costs to the employer that may be reasonably anticipated in providing bona fide fringe benefits pursuant to an enforceable commitment to carry out a financially responsible program. Fringe benefits **do not** include benefits required by other Federal, State or local law, such as the employer's contribution to Social Security or some disability insurance payment.

g. **Overtime** hours are defined as all hours worked on the site of the work in excess of 40 hours in any workweek. Overtime hours shall be compensated at not less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits.

h. **Deductions**. The employer may make payroll deductions as permitted by DOL Regulations 29 C.F.R. Part 3. These regulations prohibit the employer from requiring employees to "kick-back" (i.e. give up) any of their earnings. Allowable deductions which do not require prior DOL permission may include employee obligations for income taxes, Social Security payments, insurance premium, retirement, savings accounts, and any other legally-permissible deduction authorized by the employee. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee.

i. **Proper Designation of Trade**. Employers shall select a work classification on the wage decision for each worker based on the actual type of work they performed and shall pay each worker no less than the wage rate and fringe benefits required on the wage decision for that classification regardless of their level of skill. In other words, if someone is performing carpentry work on the project, they must be paid no less than the wage rate on the wage decision for Carpenters *even* if they are not considered by their employer to be fully trained as a Carpenter. NOTE that the only workers who can be paid less than the rate on the wage decision for their craft are apprentices and trainees registered in approved programs.

j. **Split Classifications**. Laborers and mechanics that perform work in more than one classification may be compensated at the rate specified for each classification **provided** that the employer maintains time records that accurately set forth the time spent in each classification in which work was performed. If accurate time records are not maintained, the employee shall be compensated at the highest of all wage rates for the classifications in which work was performed.

k. Additional classifications and wage rates. If the general contractor determines that the wage decision does not include a classification or classifications needed for the construction of the project, than the general contractor shall submit to HCCSD a request for an **additional classification and wage rate**. HCCSD shall review and forward the request for additional work classification and wage rate to DOL for review and preliminary approval. HCCSD shall review and shall forward the request for additional classification and wage rate to DOL for final review and approval. NOTE that the final decision rests with DOL.

The general contractor shall make the request for additional classification and wage rate in writing. All subcontractors shall submit their request for additional classification and wage rate to their general contractor for further processing. All requests shall identify the project, the project's wage decision, the additional work classification(s) that is (are) missing and recommend a wage rate and fringe benefits (usually the rate the employer already is paying to the employees performing the work) for that classification. The primary contractor may need to describe the work that the new classification will perform.

The additional classification and wage rate request may be approved if:

a. The requested classification is used by construction contractors in the area of the project. The area is usually defined as the *county* where the project is located.
b. The work that will be performed by the requested classification is not already performed by another classification that is already on the wage decision. In other words, if there already is an Electrician classification and wage rate on the wage decision, the general contractor cannot request another Electrician classification and wage rate.
c. The proposed wage rate for the requested classification "fits" with the other wage rates already on the wage decision. For example, the wage rate proposed for a trade classification such as Electrician shall be at least as much as the lowest wage rate for other trade classifications already contained in the wage decision. And,
d. The workers that will be employed in the added classification (if it is already known who the workers are or will be), or the workers' representative, must agree with the proposed wage rate.

1. ***HCCSD Review***. Grantee shall review the request for additional classification and wage rate to determine whether the request meets the DOL rules outlined above and forwards the request to HCCSD for further review and preliminary approval. If additional information is required, HCCSD shall contact the general contractor for more information. HCCSD shall inform the general contractor in writing in the event that HCCSD's review finds that the request does not meet the above-described rules. The written response shall also inform the general contractor of their option to revise and resubmit their request for additional classification and wage rate in order to meet the above-described rules.
2. .

3. ***HUD Review***. The HUD Labor Relations field staff may review the request for additional classification and wage rate to determine whether the request meets the DOL rules outlined above. If additional information is required, HUD shall contact HCCSD for more information. .

4. ***DOL Review and Decision***. The DOL shall respond to HCCSD in writing about the additional classification request and wage rate request. DOL shall forward to HCCSD

the final decision from DOL on the request, while HCCSD, in turn, informs the prime contractor of DOL's final decision to be implemented at the job site.

If DOL does not approve the contractor's request, DOL's written response to HCCSD shall include information about the classification and wage rate that shall be used by the contractor at the job site. Upon receipt from DOL's response and instructions, HCCSD shall inform the general contractor of DOL's denial and of any instructions about the classification and wage rate to be used at the job site.

Additional classification criteria and procedures are discussed in more detail in DOL Regulations 29 C.F.R. §5.5 and HUD Handbook 1344.1.

l. **Site of Work**. The "site of work" is where the Davis-Bacon wage rates apply. Usually, this means the boundaries of the project. That is the "site of work" is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed. "Site of work" includes other adjacent or nearby property used by the contractor/subcontractor in the construction of the project (e.g. fabrication sites) provided they are dedicated exclusively or nearly so to the performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them.

C. Reporting Requirements

(i) Payrolls and Basic Records.

Payrolls and basic records relating to such payrolls shall be maintained by each employer with respect to their own workforce employed on the site of the work. The principal contractor shall maintain such records relative to all laborers and mechanics working on the site of the work. Payrolls and related records shall be maintained during the course of the construction work and preserved by the contractor and all employers for at least 3 years following the completion of the work. Such records shall contain:

- The name, address and social security number of each laborer and mechanic;
- His or her correct work classification(s);
- Hourly rates of pay including rates of contributions or costs anticipated for fringe benefits;
- Daily and weekly number of hours worked, including any overtime hours;
- Gross amount paid;
- Deductions made and actual net wages paid;
- Evidence pertaining to any fringe benefit programs;
- Evidence of the approval of any apprenticeship or trainee program, the registration of each apprentice or trainee and the ratios and wage rates contained in the program.

Grantee may obtain copies of the WH-347 from the HUD Labor Relations Field staff for their jurisdiction.

(ii) Certified Payroll Reports.

Certified weekly payroll reports (CPRs) shall be submitted with respect to each week any contract work is performed. Each contractor and subcontractor (employer) shall prepare and certify such payroll reports to demonstrate compliance with the labor standards requirements. The principal contractor is responsible for full compliance with regard to its own workforce and with regard to

the compliance of every subcontractor. For this reason, all CPRs and any related records are submitted to the HCCSD through the principal contractor.

1) **CPR format.** CPR information may be submitted in any form provided that the Grantee Labor Standards Designee can reasonably interpret the information to monitor employer compliance with the labor standards. Employers are encouraged to utilize DOL Payroll Form WH-347. HCCSD shall make available to each principal contractor a limited number of copies of the WH-347 for the contractor's reproduction and use.

2) **Submission requirements.** CPRs shall be submitted for each employer beginning with the first week such employer performs work on the site of the work until the work has been completed for the project. CPRs shall be submitted promptly following the close of each such pay week.

3) **CPR preparation.** CPRs for each employer shall be numbered sequentially beginning with "1" for the first week that work was performed at the job site. The CPR for the last week of work to be performed on the project by each employer shall be clearly marked Final.

   a. **Project and Employer Information.** Each payroll shall identify the employer's name and address, the project name and number, project address, and the week ending date. The payrolls shall include the *week dates* in the spaces provided and the payrolls shall be numbered sequentially.

   b. **Employee Information.** The first payroll on which each employee appears shall contain the employee's name, address and unique employee number. Thereafter, the address only need to be reported if there is a change in such information or if another employee has the same name.

   c. **Apprentices or Trainees.** The first payroll on which any apprentice or trainee appears shall be accompanied with a copy of that apprentice's or trainee's registration in an approved program. A copy of the approved program pertaining to the wage rates and ratios shall also accompany the first CPR on which the first apprentice or trainee appears.

   d. **Split Classifications.** For an employee that worked in a split classification, the employer shall make a separate entry for each classification of work performed distributing the hours of work for each classification, accordingly, and reflecting the rate of pay and gross earnings for each classification. Deductions and net pay may be based upon total gross amount earned for all classifications. The division of hours worked in different classifications shall be accurately maintained and clearly reported.

   e. **Hours worked at other job sites.** The CPRs should reflect ONLY hours worked at the site of work. If an employee performs work at job sites other than the project for which the CPR is prepared, those "other jobs" hours should not be reported on the CPR. In these cases the employer should list the employee's name, classification, hours performed on this project only, and the rate of pay and gross earnings earned on this project. Deductions and net pay may be reflected based upon the employee's total earnings (for all projects) for the week.

   f. **Rate of Pay.** Employers shall report the basic hourly rate of pay for each employee for this project. If the wage decision includes a fringe benefit and the employer does not participate in approved fringe benefit programs, the employer shall add the fringe benefit rate to the basic hourly rate of pay. Also, the employer shall list the overtime rate if overtime hours are worked.

i. **Piece-work**. For any piece-work employee, the employer shall compute an *effective hourly rate of pay* for each employee each week based on the employee's piece-work earnings for that week. To compute the effective hourly rate of pay, the employer shall divide the piece-work earnings by the total number of hours worked each week, including consideration for overtime hours.

The effective hourly rate shall be reflected on the certified payroll and the hourly rate of pay may not be less than the wage rate (including fringe benefits, if any) on the wage decision for the classification of work performed. It does not matter that the effective hourly rate of pay changes from week-to-week, only that the rate in no less than the rate on the wage decision for the classification of work performed.

NOTE that the overtime rate for piece-work shall be computed at one and one-half times the basic rate of pay plus any fringe benefits.

ii. **Gross Wages Earned**. The employer shall show the gross amount of wages earned for work performed on this project. NOTE that the employees with work hours and earnings on other projects, the employer shall show gross wages for this project over gross earnings for all projects (for example, $425.40/$764.85) and base deductions and net pay for "all projects" earnings for that week.

iii. **Deductions**. The employer shall report the amounts of any deductions from the gross earnings. "Other" deductions shall be identified (for example, Savings Account, Loan Repayment, Child Support, etc.). Any voluntary deductions, that is, not required by law or by an order of proper authority, shall be authorized in writing by the employee or provided for in a collective bargaining (union) agreement. Written authorization shall be signed by the employee and shall accompany the first payroll on which the deduction appears.

iv. **Net Pay**. The employer shall report the net pay on each payroll submitted.

g. Statement of Compliance (Weekly Payroll Certification). Each weekly payroll shall be accompanied by a "Statement of Compliance." The Statement of Compliance shall be executed by the original signature of the principal executive of the employer or of a person authorized in writing by the principal. The Statement of Compliance shall contain the language prescribed on DOL Form WH-348 or the reverse side of Form WH-347 which shall certify to the following:

1. That the weekly payroll contains the information required to be maintained and that the information is correct and complete;

2. That each laborer or mechanic (including each apprentice and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 C.F.R. Part 3; and

3. That each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract. If the employer pays a portion of the required fringe benefits to programs and the balance directly to the employee, the employer shall explain

those differences in the spaces provided on the Statement of Compliance. If the employer pays the fringe benefits directly to the employees, then the employer shall add the cash equivalent of the fringe benefits to the reported basic hourly rate of pay.

4) **"No Work" payrolls.** Employers are not required to submit CPRs for weeks during which no work was performed on the site of the work provided that the CPRs are numbered sequentially and that the employer has provided written notice that its work on the project has been suspended.

5) **Falsification.** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001and 31 U.S.C. 3729.

(iii) Other reports

- Quarterly Employment Data Report;
- Certificate From Contractor Appointing Officer or Employees to Supervise Payment of Employees;
- Section 3 Employment and Women/Minority Business Plan;
- Certificate for Contracts, Grants, Loans and Cooperative Agreements;
- Contractor and Subcontractor(s) Profile(s); and
- Section 3 Certification requirements

(iv) Inspection of Records and On-site Interviews.

Each employer shall make the required records (CPRs and related documents) available for inspection, copying or transcription by authorized representatives of the Grantee, HUD or DOL. In addition, each employer shall permit authorized representatives to interview employees during working hours on the job site. Failure by any employer to submit the required records or to make them available, or to permit on-site employee interviews may, after written notice to the contractor, cause a suspension of any further payment, advance or guarantee of funds. In addition, failure to submit the records on request or to make them available may be grounds for debarment action pursuant to 29 C.F.R. 5.12.

(v) Requests by Outside Parties for Payrolls.

In order to protect the personal privacy interests of employees, copies of weekly payrolls shall not be released to outside parties and may be withheld under Exemption 6 of the Freedom of Information Act (FOIA) unless the employee's personal identifiers (e.g., name, address, social security number) are first deleted.

(vi) Confidentiality.

The identity of any person providing information concerning the labor standards compliance of any contractor or subcontractor shall not be disclosed in any manner to anyone other than the Grantee or Federal officials unless written consent is provided in advance by such person. Additionally, any portions of a statement or written document provided by such person, which would reveal the identity of the source shall not be disclosed without prior written consent. Disclosure of such statements and documents shall be governed by the provisions of the FOIA and the Privacy Act of 1974.

a. **Privacy Act Release.** The Grantee's Labor Standards Designee shall make available a Privacy Act Release format to each person making a statement or providing documentation, which alleges

underpayment of wages. The format shall permit such person to indicate whether disclosure of identity is authorized.

The Grantee may develop a form for its use in its jurisdiction for this purpose.

b. DOL investigatory materials. From time to time, the DOL may furnish investigatory materials to the Grantee or HUD in the course of its administration and enforcement operations. None of the material, other than computations of back wages and liquidated damages and the summary of back wages due, may be disclosed in any manner to anyone other than Grantee or HUD staff responsible for administering the contract without prior approval from the DOL.

Subrecipient shall ensure compliance with the Davis-Bacon and Related Acts requirements and shall furnish or cause to furnish the required reports documenting compliance with the Davis-Bacon and Related Acts requirements. Grantee will review all certified payrolls and conduct worker interviews and will hold the contractor responsible for compliance with labor, EEO, Section 3 employment opportunities and minority business requirements. The County, through Grantee, reserves the right to withhold funds from the general contractor to compensate workers in accordance with the appropriate wage scales as promulgated by the U.S. Department of Labor.

D. Compliance Violation(s) Provisions

As required by the Davis-Bacon Act and applicable Harris County Guidelines, the Subrecipient and the contractor, through the Subrecipient, shall be assessed fines for compliance violations.

(i) The Grantee shall issue a written Notice of Non-Compliance or wage restitution letter detailing each violation as it arises with instructions on how to cure the violation. The Notice of Non-Compliance or wage restitution letter shall provide for a fifteen (15) to thirty (30) calendar day grace period from the date of the written notice or letter for corrective actions.

(ii) Violations shall be punishable against the Subrecipient or the contractor, through the Subrecipient, on a per day/per violation basis and, provided the Grantee has not received reports documenting corrective actions.

16. The Subrecipient will not be permitted to perform any "force account work," wherein the Subrecipient uses its own employees, materials, and/or equipment. All portions of construction work will be subject to the competitive bidding process referenced above.

17. The Subrecipient's contractor shall furnish, deliver, and install one 4'-0" X 8'-0" temporary project sign according to Harris County specifications. The Subrecipient will ensure that the specifications will be made part of the project manual and the cost of the project sign will be included in all bids.

18. The Subrecipient's contractor, on all <u>building</u> projects, shall furnish, deliver, and install one 18" X 24" bronze plaque, built according to Harris County specifications. The Subrecipient will ensure that the specifications be made part of the project manual and the cost of the plaque will be included in all bids.

19. The General Contractor and subcontractors are required to submit all Davis-Bacon and Related Acts (DBRA) and Section 3 compliance documents using the LCPtracker Labor Compliance Software system.

Exhibit D, CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Executed this _____ day of_____, 20__.

By: _____
(Signature)

_____
(Type or Print Name)

_____
(Title)

Covered Action: _____
CITY OF DEER PARK FOR THE BAYOU BEND REGIONAL DETENTION FACILITY AND DRAINAGE IMPROVEMENTS PROJECT D2017-041

Exhibit E, CONFLICT OF INTEREST

All Applicants

The standards in OMB Circular A-110, Subpart C, provide that no employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a **financial or other interest** in the firm selection for an award.

CDBG and HOME Applicants Only

The CDBG regulations at 24 C.F.R. §570.611 and HOME regulations at 24 C.F.R. §92.356 provide that no person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient or subrecipient that is receiving CDBG or HOME funds and (1) who exercises or has exercised any functions or responsibilities with respect to activities assisted with CDBG funds; or (2) who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest from a CDBG-assisted or HOME-assisted activity, or have any interest in any contract, subcontract, or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter.

IF NO CONFLICTS EXIST, COMPLETE THE FOLLOWING:

❑ I certify that no conflict of interest exists between Harris County and

_____
(Name of Organization)

❑ I certify that no conflict of interest exists between the subcontractors of and

_____
(Name of Organization)

IF THERE IS A CONFLICT, COMPLETE THE FOLLOWING:

❑ I certify that a conflict of interest does exist between Harris County and

_____
(Name of Organization)

❑ I certify that a conflict of interest does exist between

_____ and
(Name of subcontractor)

_____
(Name of Organization)

Describe the nature of the conflict of interest below: (Please identify the individual, employment, and the conflict or potential conflict [their affiliation with your organization]).

Signature of Authorized Agency Official Date
Typed Name and Title

EXHIBIT F, CONFLICT DISCLOSURE STATEMENT

LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT

FORM CIS

(Instructions for completing and filing this form are provided on the next page.)

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This is the notice to the appropriate local governmental entity that the following local government officer has become aware of facts that require the officer to file this statement in accordance with Chapter 176, Local Government Code.

OFFICE USE ONLY

Date Received

1 **Name of Local Government Officer**

2 **Office Held**

3 **Name of vendor described by Sections 176.001(7) and 176.003(a), Local Government Code**

4 **Description of the nature and extent of each employment or other business relationship and each family relationship with vendor named in item 3.**

5 **List gifts accepted by the local government officer and any family member, if aggregate value of the gifts accepted from vendor named in item 3 exceeds $100 during the 12-month period described by Section 176.003(a)(2)(B).**

Date Gift Accepted _____ Description of Gift _____

Date Gift Accepted _____ Description of Gift _____

Date Gift Accepted _____ Description of Gift _____

(attach additional forms as necessary)

6 **AFFIDAVIT**

I swear under penalty of perjury that the above statement is true and correct. I acknowledge that the disclosure applies to each family member (as defined by Section 176.001(2), Local Government Code) of this local government officer. I also acknowledge that this statement covers the 12-month period described by Section 176.003(a)(2)(B), Local Government Code.

_____
Signature of Local Government Officer

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20 _____ , to certify which, witness my hand and seal of office.

_____

Signature of officer administering oath | Printed name of officer administering oath | Title of officer administering oath

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

LOCAL GOVERNMENT OFFICER CONFLICTS DISCLOSURE STATEMENT

Section 176.003 of the Local Government Code requires certain local government officers to file this form. A "local government officer" is defined as a member of the governing body of a local governmental entity; a director, superintendent, administrator, president, or other person designated as the executive officer of a local governmental entity; or an agent of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. This form is required to be filed with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of this statement.

A local government officer commits an offense if the officer knowingly violates Section 176.003, Local Government Code. An offense under this section is a misdemeanor.

Refer to chapter 176 of the Local Government Code for detailed information regarding the requirement to file this form.

INSTRUCTIONS FOR COMPLETING THIS FORM

The following numbers correspond to the numbered boxes on the other side.

1. Name of Local Government Officer. Enter the name of the local government officer filing this statement.

2. Office Held. Enter the name of the office held by the local government officer filing this statement.

3. Name of vendor described by Sections 176.001(7) and 176.003(a), Local Government Code. Enter the name of the vendor described by Section 176.001(7), Local Government Code, if the vendor: a) has an employment or other business relationship with the local government officer or a family member of the officer as described by Section 176.003(a)(2)(A), Local Government Code; b) has given to the local government officer or a family member of the officer one or more gifts as described by Section 176.003(a)(2)(B), Local Government Code; or c) has a family relationship with the local government officer as defined by Section 176.001(2-a), Local Government Code.

4. Description of the nature and extent of each employment or other business relationship and each family relationship with vendor named in item 3. Describe the nature and extent of the employment or other business relationship the vendor has with the local government officer or a family member of the officer as described by Section 176.003(a)(2)(A), Local Government Code, and each family relationship the vendor has with the local government officer as defined by Section 176.001(2-a), Local Government Code.

5. List gifts accepted, if the aggregate value of the gifts accepted from vendor named in item 3 exceeds $100. List gifts accepted during the 12-month period (described by Section 176.003(a)(2)(B), Local Government Code) by the local government officer or family member of the officer from the vendor named in item 3 that in the aggregate exceed $100 in value.

6. Affidavit. Signature of local government officer.

Local Government Code § 176.001(2-a): "Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Government Code.

Local Government Code § 176.003(a)(2)(A):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

EXHIBIT G, CONFLICT OF INTEREST QUESTIONNAIRE

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

_____
Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

_____ _____
Signature of vendor doing business with the governmental entity Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

Exhibit H, DEED OF TRUST TO SECURE PERFORMANCE

Date: _____, 2020.

SAMPLE

Grantor:

Grantor's Mailing Address:

Trustee:	Lina Hidalgo, County Judge of Harris County Texas (or her successor in office)
Trustee's Mailing Address (including county):	1001 Preston, Suite 911, Houston, Harris County, Texas 77002
Beneficiary:	Harris County, a body politic and corporate under the laws of the State of Texas
Beneficiary's Mailing Address (including county):	1001 Preston, Suite 911, Houston, Harris County, Texas 77002

Property (including improvements):

See Exhibit A attached hereto and made a part hereof for all purposes.

Prior Lien(s) (including recording information):

Other Exceptions to Conveyance and Warranty:

Easements, rights of way and prescriptive rights, whether of record or not; all presently recorded restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances and other instruments that affect the property.

GRANT

On or about _____, 2020, _____ and Harris County entered into an agreement for the acquisition of land or the construction/rehabilitation/renovation of a _____ utilizing Community Development Block Grant (CDBG) funds from the United States Government as authorized under Title I of the Housing and Community Development Act of 1974. Such Agreement is sometimes called "the Agreement" in this document.

Such Agreement was considered and approved by Commissioners Court on _____, 2020; the order approving the agreement is recorded at Vol._____ Page_____ in the Harris County Clerk's Commissioners Court Minutes. The Agreement and Order approving the same is incorporated in this document by reference for all purposes.

Funds provided under the Agreement have been utilized to purchase the property by _____.

For value received and to secure performance of the obligations of Grantor contained on the Agreement and in this Deed of Trust Grantor conveys the property to Trustee in trust.

If Grantor performs all the covenants of this deed of trust and the Agreement, this deed of trust shall have no further effect, and Beneficiary shall release it at Grantor's expenses five (5) years from the date of funding, or when such funds have been expended for the purposes of the Project, or the Project is completed as described in Section III. TIME OF PERFORMANCE of the Agreement, whichever occurs at a later date.

Grantor warrants and agrees to defend the title to the property.
GRANTOR'S ADDITIONAL OBLIGATIONS

Grantor agrees to:

1. Keep the property in good repair and condition;
2. Pay all taxes and assessments, if any, on the property when due and provide Beneficiary with evidence of such payment within ten days of such payment;
3. Preserve the lien's priority as it is established in this deed of trust;
4. Maintain, in a form acceptable to Beneficiary, an insurance policy that:
    a. covers all improvements to their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
    b. contains an 80 percent coinsurance clause;
    c. provides fire and extended coverage, including windstorm coverage;
    d. protects Beneficiary with a standard mortgage clause;
    e. provides flood insurance at any time the property is in a flood hazard area; and
    f. contains such other coverage as Beneficiary may reasonably require;
5. Comply at all times with the requirements of the 80 percent coinsurance clause;
6. Deliver the insurance policy to Beneficiary and deliver renewals to Beneficiary ten (10) days prior to expiration;
7. If this is not a first lien, pay all prior lien Agreements and abide by all prior lien instruments;
8. Perform all obligations Grantor is required to perform in the Agreement;
9. Comply at all times with the terms of any restrictive covenants applicable to the property
10. Provide such financial reports and other documents as Beneficiary may from time to time request in order to assure that _____ is in compliance with this deed of trust and the Agreement.

BENEFICIARY'S RIGHTS

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee.
2. If Grantor fails to perform any obligations, Beneficiary may perform those obligations and be reimbursed by the Grantor on demand at Beneficiary's address for any sums so paid, including attorney's fees, plus interest at 12 percent per annum. The sum to be reimbursed shall be secured by this deed of trust.
3. If Grantor fails to perform any of Grantor's obligations on this deed of trust or the Agreement or if default occurs on a prior lien note or other instrument, and the default continues after Beneficiary gives Grantor notice of the default and the time within which it must be cured, as may be required by law or by written agreement, then Beneficiary may:
    a. request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended; and
    b. purchase the property at any foreclosure sale by offering the highest bid and then have the bid credited on any sums owed Beneficiary.

TRUSTEE'S DUTIES

If requested by Beneficiary to foreclose this lien, Trustee shall:

1. Either personally or by agent, give notice of the foreclosure sale as required by the Texas Property Code as then amended.
2. Sell and convey all or part of the property to the highest bidder for cash with a general warranty binding Grantor, subject to prior liens and to other exceptions to conveyances and warranty; and
3. From the proceeds of the sale, pay, in this order:
    a. expenses of foreclosure, including a commission to trustee of 5 percent of the bid;
    b. to Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
    c. any amount required by law to be paid before payment to Grantor; and
    d. to Grantor, any balance.

GENERAL PROVISIONS

1. If any of the property is sold under this deed of trust, grantor shall immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. recitals in any Trustee's deed conveying the property will be presumed to be true.
3. Proceeding under this deed of trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.

4. This lien shall remain superior to liens later created.
5. If any portion of any sums owed to Beneficiary cannot be lawfully secured by this deed of trust, payments shall be applied first to discharge that portion.
6. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation of all or part of the property; from private sales in lieu of condemnation, and from damages caused by public works or construction on or near the property. After deducting any expenses incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce any sums owed Beneficiary. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums.
7. Grantor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the property. Leases are not assigned. Grantor warrants the validity and enforceability of the receipts of the assignment. Grantor may as Beneficiary's licensee collect rent and other income and receipts as long as Grantor is not in default under the agreement or this deed of trust. If Grantor defaults in performance of the Agreement or this deed of trust, Beneficiary may terminate Grantor's license to collect and then as Grantor's agent may rent the property if it is vacant and collect all rent and other income receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to expenses insured in exercising Beneficiary's rights and remedies and then to Grantor's obligations under the Agreement and this deed of trust in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph, and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Grantor becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law.
8. Interest on the debt secured by this deed of trust shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted payment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all instruments concerning the debt.
9. Grantor hereby covenants, represents and warrants to Beneficiary that Grantor's intended occupancy, operation, and use of the Property do not and will not violate any applicable environmental law pertaining to health or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601-75 (1986) as amended by the Superfund Amendments and Reauthorization Act, Publ. L. No. 99-499, 100 stat. 1613 (1986) ('CERCLA"), the Resource Conservation and recovery Act of 1976, 42 U.S.C. §§ 6901-91 (1985) as amended from time to time ("RCRA"), the Texas Water Code, as amended from time to time, the Texas Solid Waste Disposal Act, as amended from time to time. Beneficiary makes no representations or warranties whatsoever to Grantor regarding the presence or absence of hazardous or toxic materials in, at or under the Property.
10. When the context requires, singular nouns and pronouns include the plural.
11. This deed of trust shall bind inure to the benefit of, and be exercised by successors in interest of all parties.

SECURITY AGREEMENT

1. In addition to creating a deed of trust on all the real and other property described above, Grantor also grants to Beneficiary a security interest in all property other than the realty pursuant to the Texas Uniform Commercial Code. Grantor grants to Beneficiary a security interest in all equipment, accounts, general intangibles, fixtures and other personal property used or acquired for use, on or in connection with the use or operation of the Property, or otherwise related to the Property and all products and proceeds thereof; all of which are hereinafter referred to as the Collateral for the purposes of this section of the deed of trust. In this section of the deed of trust the Beneficiary is sometimes called the Secured Party.
2. Debtor covenants and agrees with Secured Party that:
   (a) In addition to and cumulative of any other remedies granted in this instrument to Secured Party or the Trustee, Secured Party or the Trustee may, upon or at any time after default under the instrument, proceed under the Uniform Commercial Code as to all or any part of the Collateral and shall have and may exercise with respect to the Collateral all the rights, remedies and powers of a Secured party under the Uniform Commercial Code, including without limitation the right and power to sell, at public or private sale or sales, or otherwise dispose of, lease or use the Collateral and any part or parts thereof in any manner authorized

or permitted under the Uniform Commercial Code after default by a debtor, and to apply the proceeds thereof toward payment of any costs expenses, attorney's fees and legal expenses incurred by Secured Party, and toward payment of the Indebtedness in such order or manner as Secured Party may elect. Among the rights of Secured Party upon and after the occurrence of an event of default, and without limitation, Secured Party shall have the right to take possession of the Collateral and to enter upon any premise where the same may be situated for such purpose without being deemed necessary, appropriate or desirable by Secured Party, at its option and in its discretion, to repair, refurbish or otherwise prepare the Collateral for sale, lease other use or disposition as herein authorized. To the extent permitted by law, Debtor expressly waives any notice of sale or other disposition of the Collateral and any other rights or remedies of a debtor or formalities prescribed by law relative to sale or disposition of the Collateral or exercise of any other right or remedy of Secured Party existing after default hereunder; and to the extent any such notice is required and cannot be waived, Debtor agrees that if such notice is mailed, postage prepaid, to the Debtor at the address designated at the beginning of this instrument (or if no address is designated, at Debtor's most recent address as shown by the records of the Secured Party) at least ten (10) days before the time of any public sale or disposition, or the date after which the Collateral will be sold or disposed of by private sale, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving of any such notice.

(b) Secured Party is expressly granted the right, at its option, to transfer at any time to itself to its nominee the Collateral or any part thereof, and to receive the monies, income, proceeds or benefits attributable or accruing thereto and to hold the same as security for the Indebtedness or to apply it on the principal and interest or other amount owing on any of the Indebtedness, whether or not then due, in such order or manner as Secured Party may elect. All rights to marshaling of assets or sale in inverse order of alienation, including any such rights with respect to the Collateral are hereby waived.

(c) All recitals in any instrument of assignment or any other instrument executed by Secured Party incident to sale, transfer, assignment, lease or other disposition or use of the Collateral or any part thereof hereunder shall be full proof of the matters stated therein, and no other proof shall be required to establish the full legal propriety of the sale or other action or of any fact, condition or thing incident thereto and all recitals in any instrument shall be presumed conclusively to have performed or to have occurred.

(d) Secured Party may require Debtor to assemble the Collateral and make it available to Secured Party at a place to be designed by Secured Party that is reasonably convenient to both parties. All expenses of retaking, holding preparing for sale, lease, or other use or disposition, selling, leasing or otherwise using or disposing of the Collateral and the like which are incurred or paid by Secured Party as authorized or permitted hereunder, including also all attorney's fees, legal expenses and costs shall be added to the Indebtedness secured by this instrument and Debtor shall be liable therefore,

(e) Should Secured Party elect to exercise its rights under said Uniform Code as to part of the personal property or fixtures described herein, this election shall not preclude any other exercise of the rights and remedies granted by the other Articles of this instrument as to the remaining personal property or fixtures.

(f) Secured Party may, at its election, at any time after delivery of this instrument, sign one or more copies hereof in order that such copies may be used as a financing statement under said Uniform Commercial Code. Said signature by Secured Party may be placed between the last sentence of this instrument and Debtor's acknowledgement or may follow Debtor's acknowledgement. Secured Party's signature need not be acknowledged and is not necessary to the effectiveness hereof as a deed of trust, mortgage, assignment, pledge, and security agreement or (unless otherwise required by applicable law) as a financing statement.

(g) So long as any amount remains unpaid on the Indebtedness, Debtor will not execute and there will not be filed in any public office any financing statement or statements affecting the Collateral other than financing statements in favor of Secured Party hereunder, unless prior written specific consent and approval of Secured Party shall have been first obtained.

(h) Secured Party is authorized to file in any jurisdiction where Secured Party deems it necessary, a financing statement or statements and one or more continuation statement, and at the request of Secured Party, Debtor will join Secured Party in executing one or more financing statements, continuation statements or both pursuant to said Uniform Commercial Code in form satisfactory to Secured Party, and will pay the cost of filing or recording in all public offices at any time and from time to time whenever filing or recording of any financing statement, continuation statement or this instrument is deemed by Secured Party to be necessary or desirable.

(i) Certain of the Collateral is or will become "fixtures" (as that term is defined in said Uniform Commercial Code) on the real estate described or referred to in this instrument, and this instrument upon being filed for record in the real estate records of the county wherein such fixtures are situated shall operate also as a financing statement upon such of the Collateral which is or may become fixtures.

3. Debtor further warrants and represents to Secured Party that, except for the security interest granted hereby in the Collateral, Debtor is the legal and equitable owner and holder of the Collateral free of any adverse claim and free of any security interest or encumbrance except only those (if any) expressly hereinafter referred to or described, and Debtor agrees to defend the Collateral against all claims and demands of any person at any time claiming the same or any interest therein. Debtor further warrants and represents that Debtor has not heretofore signed any financing statement directly or indirectly affecting the Collateral or any part thereof, and no such financing statement signed by Debtor is now on file in any public office except only those statement (if any) true and correct copies of which have been delivered to Secured Party.
4. In the event of a foreclosure sale under this deed of trust, Grantor agrees that all the property may be sold as a whole at Beneficiary's option and that the property need not be present at the place of sale.

VENDORS LIEN

The debt evidenced by the Agreement is in part payment of the purchase of the property; the debt is secured both by this deed of trust and by the vendor's lien on the property, which is expressly retained in a deed to Grantor of even date. This deed of trust does not waive the vendor's lien, and the two liens and rights created by this instrument shall be cumulative. Beneficiary may elect to foreclose under either of the liens without waiving the other or may foreclose under both. The deed is incorporated into this deed of trust by reference.

RESTRICTIONS ON TRANSFER

If all or any part of the Property is sold, conveyed, leased for a period longer than three (3) years, leased with an option to purchase, or otherwise sold (including by contract for deed), without the prior written consent of the Beneficiary, then the Beneficiary may at Beneficiary's option declare the outstanding principal balance of the Agreement, plus accrued interest, to be immediately due and payable.

EXHIBIT I, REQUIRED FEDERAL GRANT CONTRACT PROVISIONS

Pursuant to 2 C.F.R. Part 200 Appendix II, the Contractor shall agree to the following, in addition to other provisions required by the federal agency or non–federal entity, all contracts made by the non-federal entity under the federal award must contain provisions covering the following, as applicable:

I. Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

II. All contracts in excess of $10,000 must address termination for cause and for convenience by the non–federal entity including the manner by which it will be effected and the basis for settlement.

III. Equal Employment Opportunity

(1) If this contract is a non-construction contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(c) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing,

or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The Contractor will comply with all provisions of Executive Order 11246 - Equal Employment Opportunity, as Amended (Order 11246) of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The Contractor will include the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(2) If this contract is a construction contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to

their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(c) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally assisted construction

contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h) The Contractor will include the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: provided, that if the applicant so participating is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until

satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

IV. Davis Bacon Act

The Contractor hereby agrees to abide by the Davis-Bacon Act and Related Acts, including the Copeland "Anti-Kickback" Act. The Contractor shall require that all subcontractors abide by the Davis-Bacon Acts and Related Acts.

Applicability – The Davis-Bacon and Related Acts apply to all construction work financed in whole or in part with federal assistance including rehabilitation of residential property, if such property contains 8 or more units.

Exceptions – The provisions relating to wages pursuant to Davis-Bacon and Related Acts requirements in any contract or agreement for assistance, sale, or lease, shall not apply to any individual who performs services for which the individual volunteered, or does not receive compensation for such services, or is paid expenses, reasonable benefits, or a nominal fee for such services for which the individual volunteered and who is not otherwise employed at any time in the construction work.

The Davis-Bacon Act requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor (DOL)) to all laborers and mechanics on federally funded and District of Colombia construction projects in excess of $2,000.00. Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works.

The Davis-Bacon wage rate applies to The U. S. Department of Housing and Urban Development (HUD) projects because of a labor provision contained in one of HUD's "Related Acts" such as the U.S. Housing Act of 1937, the National Housing Act, the Housing and Economic Development Act of 1974, the National Affordable Act of 1990, and the Native American Housing Assistance and Self-Determination Act of 1996. The Related Acts are referred to as the Davis-Bacon and Related Act or DBRA. The DOL has published rules and pertinent implementation information concerning Davis-Bacon and other laws in the Code of Federal Regulations (CFR). These regulations are found in Title 29 C.F.R. Parts 1, 3, 5, 6 and 7.

Part 1 of the DOL regulation (29 CFR) explains how the DOL establishes and publishes DBA wage determinations (e.g. wage decisions) and provides instructions on how to use the determinations. Part 3 of the DOL regulation (29 CFR) describes the Copeland Act. The Copeland Act (Anti—Kickback Act) makes it a federal crime for anyone to require any laborer or mechanic (employed on a federal or federally-assisted project) to kickback (i.e. give up or pay back) any part of their wages. The Copeland Act requires every employer (contractors and subcontractors) to submit weekly certified payroll reports (CPRs) and regulates permissible payroll deductions. Part 5 of the DOL regulation (29 CFR) covers the labor standards provisions relating to the Davis-Bacon Act wage rates and the responsibilities of Contractors and contracting agencies to administer and enforce the provisions. Part 6 of the DOL regulation (29 CFR) provides for administrative proceedings enforcing federal labor standards on construction and service contracts. Last, Part 7 of the DOL regulation (29 CFR)

sets parameters for practice before the Administrative Review Board. These regulations are used as the basis for administering and enforcing the laws.

All suspected or reported violations shall be reported to the awarding agency.

V. Contract Work Hours and Safety Act

The Contractor hereby agrees to abide by the Contract Work Hours and Safety Act (40 U.S.C. 3701–3708). The Contract Work Hours and Safety Act (CWHSSA) require time and one-half pay for overtime (O/T) hours (over 40 in any workweek) worked on the covered project. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. The CWHSSA applies to both direct federal contracts and to indirect federally-assisted contracts except where the assistance is solely in the nature of loan guarantee or insurance. CWHSSA violations carry a liquidated damages penalty ($10/day per violation). Intentional violations of CWHSSA standards can be considered for federal criminal prosecution. The Contractor shall include a provision requiring adherence to Contract Work Hours and Safety Act in all subcontracts.

VI. Patents and Copyrights

If this agreement results in any copyrightable material, the Grantee and/or the Grantor reserves the right to royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work for government purposes. Recipients shall have no obligation to the federal government with respect to program income earned from license fees and royalties for copyrighted materials, patents, patent applications, trademarks, and inventions produced under this award. However, Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made under an experimental, developmental, or research award.

VII. Federal Environmental Regulations

Contractors shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387) and all other relevant federal environmental regulations.

Contractors securing a contract in excess of $100,000.00 will not expend such funds by making use of subcontracting with facilities included on the Environmental Protection Agency List of Violating Facilities as per Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations 40 CFR 15.4.

Violations of this provision or of the aforementioned acts shall be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

VIII. Debarment and Suspension

A contract award shall not be made with any party listed on the government-wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), ‘‘Debarment and Suspension.’’ SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors shall not hire subcontractors on any of the aforementioned lists.

IX. Byrd Anti–Lobbying Amendment

In accordance with the Byrd Amendment, U.S. Code Title 31 Chapter 13 §1352 the Contractor shall certify and shall require that all subcontractors certify the following:

1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement.

2) If any funds other than federal appropriated funds have been paid of will be paid to any person for influencing or attempting to influence and officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

X. Solid Waste Removal

The Contractor shall comply and shall require subcontractors to comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

XI. Failure to comply

Failure to comply with any part these provisions constitutes a material breach of this Agreement. The event of such a breach may result in compensation being withheld or suspended, termination of the Agreement, or suspension or debarment of the Contractor. The Contractor shall also be liable for all damages available under 2 CFR Part200 and statutes and regulations related to the formation and execution of this Agreement. The Grantor and Grantee are also entitled to all relief available under 2 CFR Part200 and all statutes and regulations related to the formation and execution of this Agreement.

EXHIBIT J, CDBG-DR FEDERAL REGULATIONS

A grantee and all subgrantees shall abide by all local, state, and federal regulations of the Community Development Based Grant (CDBG). A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section and any applicable amendments.

(i) Contract provisions. A grantee and all subgrantees shall comply with the following:

1. Title I of the Housing and Community Development Act of 1974;
2. 24 CFR Part 570 Community Development Block Grants (CDBG) and Community Development Block Grants Disaster Recovery (CDBG-DR) regulations;
3. Public Law December 27, 2017 (Vol. 82, Federal Register 61320-61323) (Appropriation Act that provides funding specifically for Hurricane Harvey);
4. Uniform Relocation Act (URA) (29 CFR Part 24, et al.) (42 USC 4601-4655);
5. Davis-Bacon Act (40 U.S.C. 276a to 276a-7);
6. Citizen Participation Plan; Local Governments (24 CFR 91.105);
7. Contract Work Hours and Safety Standards Act (40 USC 327);
8. Kickbacks from Public Works Employees (18 USC 874);
9. Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to The Contract Work Hours And Safety Standards Act) (9 CFR Part 5) (Section 110 of the Housing and Community Development Act of 1974), Copeland Anti-Kick Back (18 USC 874);
10. Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u) and implementing regulations at 24 CFR Part 135;
11. Hatch Act (5 USC 1501-1508) (5 USC Chapter 15);
12. Insurance and Bonding (24 CFR 200);
13. Documentation and Record Keeping (24 CFR 570);
14. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200) (updated version of 24 CFR Part 85);
15. Procurement and Contractor Oversight (2 CFR 200);
16. Nondiscrimination (24 CFR Part 6), Architectural Barriers Act (42 USC 4151-4157) and the Americans with Disabilities Act (ADA) (42 USC 12131; 47 USC 155, 201, 218, and 225), State and Local Nondiscrimination Provisions, and Title VI of the Civil Rights Act of 1964 (24 CFR Part 1);
17. Affirmative Action (Executive Order 11246 of September 24, 1966, as amended, and implementing regulations at 42 CFR Chapter 60), Women-and Minority-Owned Businesses (W/MBE) (2 CFR Part 200);
18. Limited English Proficiency (LEP) (Title VI of the Civil Rights Act of 1964; Executive Order 13166);
19. Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288) and Duplication of Benefits (42 U.S.C.§ 5155);
20. National Environment Policy Act of 1969 (24 CFR Part 50);
21. Cash Management Improvement Act (31 CFR Part 205);
22. Government Debarment and Suspension and Governmentwide Requirements for Drug-Free Workplace (24 CFR Part 24) (Executive Order 12549: Debarment and Suspension);

23. Environmental Review (24 CFR Part 58); The Clean Air Act (42 USC 7401 et. Seq), Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency 40 CFR Parts 6, 51, 93), Federal Water Pollution Control Act (33 USC 1251, et seq.), Flood Disaster Protection (Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 USC 4012a, Section 582 of the National Flood Insurance Reform Act of 1994, as amended – 42 USC 5154a), Lead Based Paint (24 CFR Part 35; 42 USC 4851-4856), Historic Preservation (National Historic Preservation Act of 1966);
24. Federal Funding Accountability and Transparency Act (FFATA) of 2006 (2 CFR Part 170);

25. Section 104(d) Relocation and One-for-One Replacement Requirements (24 CFR Part 42); and
26. Whistleblower Protection Act (41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908; 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation); and
27. all applicable Federal Register Notices.

EXHIBIT K, GLO INFORMATION SECURITY APPENDIX

1. Definitions

"Breach of Security" or "Breach" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information including data that is encrypted if the person accessing the data has the key required to decrypt the data.

"Personal Identifying Information" or "PII" means information that alone, or in conjunction with other information, identifies an individual, as defined at Tex. Bus. & Com. Code § 521.002(1).

"Sensitive Personal Information" or "SPI" means the information categories listed at Tex. Bus. & Com. Code § 521.002(2).

2. Security and Privacy Compliance

a. Contractor shall keep all PII and SPI received or generated under the Contract and any documents related thereto strictly confidential.

b. Contractor shall comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations and directives.

c. Contractor shall implement administrative, physical, and technical safeguards to protect PII and SPI that are no less rigorous than accepted industry practices including, without limitation, the guidelines in the National Institute of Standards and Technology ("NIST") Cybersecurity Framework Version 1.1. All such safeguards shall comply with applicable data protection and privacy laws.

d. Harris County shall legally bind any contractors and their subcontractors to the same requirements stated herein and obligations stipulated in the Contract and documents related thereto. Harris County shall ensure that the requirements stated herein are imposed on any subcontractor of Contractor's subcontractor(s).

e. Contractor will not share PII or SPI with any third parties, except as necessary for Contractor's performance under the Contract.

f. Contractor will ensure that initial privacy and security training, and annual training thereafter, is completed by its employees and contractors, including any subcontractor, that have access to PII or SPI or who create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise personally handle PII or SPI on behalf of Harris County. Contractor agrees to maintain and, upon request, provide documentation of training completion.

g. Any PII or SPI maintained or stored by Contractor or any contractor, including any subcontractor, must be stored on servers or other hardware located within the physical borders of the United States and shall not be accessed outside of the United States.

3. Data Ownership

a. The GLO shall retain full ownership of all data, including PII and SPI, provided to Contractor by Harris County or the GLO.

b. Upon termination of the Contract, Contractor shall promptly return to Harris County and/or the GLO all Harris County-owned or GLO-owned data possessed by Contractor and its employees, agents, or contractors, including any subcontractor. Contractor shall retain no copies or back-up records of Harris County-owned or GLO-owned data. If such return is infeasible, as mutually determined by Harris County and the GLO and Contractor, the obligations set forth in this Appendix, with respect to Harris County-owned or GLO-owned data, shall survive termination of the Contract and Contractor shall limit any further use and disclosure of GLO Data to the purposes that make the return of Harris County-owned or GLO-owned data infeasible. In lieu of the requirements in this Section 3.2, Harris County or the GLO may direct Contractor to destroy any Harris County-owned or GLO-owned data in Contractor's possession. Any such destruction shall be verified by Contractor and Harris County and/or the GLO.

4. **Data Mining**

   a. Contractor agrees not to use PII or SPI for unrelated purposes, advertising or advertising-related services, or for any other purpose not explicitly authorized by Harris County in the Contract or any document related thereto.

   b. Contractor agrees to take all reasonably feasible physical, technical, administrative, and procedural measures to ensure that no unauthorized use of PII or SPI occurs.

5. **Breach of Security**

   a. Contractor agrees to provide Harris County and/or the GLO with the name and contact information for a Contractor employee which shall serve as the primary data security contact.

   b. Upon discovery of a Breach of Security or suspected Breach of Security by the Contractor, Contractor agrees to notify Harris County as soon as possible upon discovery of the Breach of Security or suspected Breach of Security, but in no event shall notification occur later than 24 hours after discovery. Within 72 hours, Contractor agrees to provide, at minimum, a written preliminary report regarding the Breach or suspected Breach to Harris County with root cause analysis including a log detailing the data affected.

   c. The initial notification and preliminary report shall be submitted to the GLO Information Security Officer at brandon.rogers@glo.texas.gov.

   d. Contractor agrees to take all reasonable steps to immediately remedy a Breach of Security and prevent any further Breach of Security.

   e. If the Breach of Security includes SPI, including Social Security Numbers, payment card information, or health information, Contractor agrees to provide affected individuals complimentary access for one (1) year of credit monitoring services.

6. **Right to Audit**

   a. Upon Harris County's request and to confirm Contractor's compliance with this Appendix, Contractor grants Harris County, or the GLO, permission to perform an assessment, audit, examination, investigation, or review of all controls in the Contractor's, or any of Contractor's contractors, including any subcontractor's, physical and/or technical environment in relation to PII or SPI. Contractor agrees to fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure, and application software that stores, processes, or transports PII or SPI. In lieu of a Harris County or GLO-conducted assessment, audit, examination, investigation, or review, Contractor may supply, upon Harris County or GLO approval, the following reports: SSAE16, ISO/ICE 27001 Certification, FedRAMP Certification, and PCI Compliance Report. Contractor shall ensure that this clause concerning Harris County and the GLO's authority to assess, audit, examine, investigate, or review is included in any subcontract it awards.

   b. At the GLO's request, Contractor agrees to promptly and accurately complete a written information security questionnaire provided by Harris County or the GLO regarding Contractor's business practices and information technology environment in relation to GLO Data.

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the _____day of _____, _____, with the following members present, to wit:

Lina Hidalgo	County Judge
Rodney Ellis	Commissioner, Precinct No. 1
Adrian Garcia	Commissioner, Precinct No. 2
Steve Radack	Commissioner, Precinct No. 3
R. Jack Cagle	Commissioner, Precinct No. 4

And the following members absent, to-wit _____, constituting a quorum, when among other business, the following was transacted:

ORDER AUTHORIZING EXECUTION OF AGREEMENT BETWEEN HARRIS COUNTY AND CITY OF DEER PARK FOR THE BAYOU BEND REGIONAL DETENTION FACILITY AND DRAINAGE IMPROVEMENTS PROJECT

Commissioner _____ introduced an order and made a motion that the same be adopted. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Hidalgo	☐	☐	☐
Comm. Ellis	☐	☐	☐
Comm. Garcia	☐	☐	☐
Comm. Radack	☐	☐	☐
Comm. Cagle	☐	☐	☐

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

RECITALS:

THIS AGREEMENT, is made and entered by and between Harris County, a body politic and corporate under the laws of the State of Texas, herein called the "Grantee," and the City of Deer Park, a body politic and corporate under the laws of Texas, herein called, the "Subrecipient."

WHEREAS, On August 25, 2017, Harris County sustained significant damage when Hurricane Harvey made landfall as a Category 4 hurricane and over the next four days dropped as much as 60 inches of rain along the Gulf Coast including Harris County that resulted in a Presidentially Declared Disaster;

WHEREAS, The U.S. Department of Housing and Urban Development (HUD) has allocated $5.024 billion in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to the state of Texas in response to Hurricane Harvey, DR-4332, through the publication of the Federal Register, Vol. 83, No. 28, Friday, February 9, 2018; and an additional $652,175,000 through the publication of the Federal Register, Vol. 83, No. 157, Tuesday, August 14, 2018.

WHEREAS, In the State of Texas Action Plan submitted to U.S. HUD on May 8, 2018 by the Texas General Land Office (GLO), the State made a direct allocation of $1,115,386,830 in Community Development Block Grant Disaster Recovery (CDBG-DR) funding to Harris County; and

WHEREAS, The GLO on May 9, 2018 notified Harris County to complete a Supplemental Action Plan, for Hurricane Harvey Round 1 CDBG-DR funding, which will be amended into the State's Action Plan; and

WHEREAS, in accordance with GLO requirements, on July 10, 2018 the Harris County Commissioner Court approved the Harris County Supplemental Action Plan and resolved to submit the plan to the GLO; and

WHEREAS, on October 23, 2018 the Harris County Commissioner Court approved the Harris County Method of Distribution (MOD) and GLO has approved the MOD; and

WHEREAS, all of the Infrastructure Project Applications for the 2017 Hurricane Harvey Texas Community Development Block Grant Disaster Recovery Round Funding will be approved on Commissioners Court and submitted to the Texas General Land Office; and

WHEREAS, the GLO, and County DUNS No. 072206378 (each a "Party" and collectively "the Parties,") entered into a "Subrecipient Agreement" (the "Contract") on January 29, 2019 and subsequent Amendments, under the HUD 2017 Hurricane Harvey CDBG-DR Round One Harris County Disaster Recovery Program to provide financial assistance with funds appropriated under the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law No. 115-56), enacted on September 8, 2017, to facilitate disaster recovery, restoration, and economic revitalization and to affirmatively further fair housing, in accordance with Executive Order 12892, in the areas affected by the Texas Hurricane Harvey (DR-4332), which are Presidentially-declared major disaster areas under Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121, *et seq*.);

WHEREAS, the Grantee and Subrecipient desire to enter into an agreement whereby the Grantee will grant CDBG-DR funds to the Subrecipient for the purpose of BRIEFLY DESCRIBE PROJECT SCOPE, which is an eligible activity under the rules and regulations regarding CDBG-DR Program grant funds;

WHEREAS, the Subrecipient has submitted an application to the Grantee for CDBG-Disaster Recovery funding to implement the above-described Project and shall perform the activities in a manner satisfactory to the Grantee;

WHEREAS, the Grantee wishes to engage the Subrecipient to assist the Grantee in utilizing CDBG-DR funds; and

WHEREAS, the Subrecipient shall ensure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities, and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient shall include reference to Harris County Community Services Department (HCCSD) for the support provided herein.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF HARRIS

COUNTY, TEXAS THAT:

Section 1: The recitals set forth in this Agreement are true and correct.

Section 2: The Executive Director of Harris County Community Services Department or their Designee is hereby authorized to execute an Agreement between Harris County and City of Deer Park for the partial funding of the Bayou Bend Regional Detention Facility and Drainage Improvements Project, in the amount not to exceed $2,920,500.00. The Agreement is attached hereto and made a part hereof for all purposes.

Section 3: The Harris County Community Services Department and its Executive Director or their Designee are authorized to take such actions and execute such other documents as they deem necessary or convenient to carry out the purpose of this Agreement.

Exhibit B, BUDGET

CITY OF DEER PARK
BAYOU BEND REGIONAL DETENTION FACILITY AND DRAINAGE IMPROVEMENTS PROJECT

Maximum Amount to be Paid Under this Agreement

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed TWO MILLION NINE HUNDRED TWENTY THOUSAND FIVE HUNDRED and 00/100 Dollars ($2,920,500.00), as certified available by the Harris County Auditor and as evidenced by the issuance of a Purchase Order from the Harris County Purchasing Agent.

PROJECT SUMMARY

DESCRIPTION	CSD (CDBG)	LEVERAGE	TOTAL
Project Costs			
I. Architectural/Engineering Design	$348,000.00	$0.00	$348,000.00
II. Construction	$2,572,500.00	$0.00	$2,572,500.00
Project Budget Total	**$2,920,500.00**	**$0.00**	**$2,920,500.00**

CDBG-DR PY2017 $2,920,500.00

PROJECT DETAIL

Project Costs	CSD (CDBG)	LEVERAGE	TOTAL
I. Architectural/Engineering Design			
Architectural/Engineering Design Plans	$348,000.00	$0.00	$348,000.00
Subtotal	**$348,000.00**	**$0.00**	**$348,000.00**
II. Construction			
Construction (new construction, rehabilitation, renovation)	$2,572,500.00	$0.00	$2,572,500.00
Subtotal	**$2,572,500.00**	**$0.00**	**$2,572,500.00**
Project Detail Total	**$2,920,500.00**	**$0.00**	**$2,920,500.00**